

ATTACHMENT NO. 15

COUNTY PURCHASE AND SALE AGREEMENT

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AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY
(Elmwood, Milpitas, California)

THIS AGREEMENT for the Purchase and Sale of Real Property ("Agreement") dated for reference purposes only the 19th day of August, 2003, is entered into between the COUNTY OF SANTA CLARA, a political subdivision of the State of California ("Seller") and KB HOME SOUTH BAY INC., a California corporation ("Buyer").

RECITALS

A. Seller is the owner of certain real property (the "Seller's Entire Property") located in the City of Milpitas, County of Santa Clara, State of California and described on Exhibit A hereto.

B. Seller desires to sell that portion of the Seller's Entire Property described on Exhibit B hereto (the "Housing Parcels") to a residential housing developer. As a condition to the sale of the Housing Parcels, Seller requires that the purchaser agree to develop and make available an aggregate of twenty percent (20%) of the total number of units on the Housing Parcels (i) for rental to "low" and "very low" income families at rates affordable to households at "low" and "very low" income levels and (ii) for sale to moderate income families at prices affordable to "moderate" income buyers.

C. Seller intends to develop Parcel B for commercial purposes.

D. In conjunction with Seller's disposition of the Housing Parcels, prior to the Effective Date of this Agreement Seller has entered into an Agreement of Purchase and Sale effective as of June 3, 2003 (the "RDA Agreement") with the Milpitas Redevelopment Agency ("RDA") pursuant to which Seller has agreed to sell to the RDA, and the RDA has agreed to purchase from Seller, the Housing Parcels on terms and conditions more particularly set out therein. The RDA Agreement acknowledges that Seller intends to negotiate a "Disposition Agreement" pursuant to which Seller will agree to sell the Housing Parcels to a third party buyer on terms negotiated between Seller and the third party buyer (and approved by the RDA). Concurrently with the close of escrow for the sale of the Housing Parcels to the RDA, Seller shall assign to the RDA all of its rights and obligations under this Agreement to the RDA, and the RDA shall accept such assignment and assume and perform the Seller's obligations under this Agreement, except for certain obligations retained by Seller pursuant to Section 16.3.2. This Agreement for the Purchase and Sale of Real Property is the "Disposition Agreement" referred to in the RDA Agreement. Depending on the actual Closing Date hereunder, the Seller's conveyance of the Housing Parcels to the RDA may take place before Escrow Closing hereunder, or the RDA may acquire title to the Housing Parcels and, concurrently, transfer the Housing Parcels to Buyer.

E. Seller has agreed (i) to pay for certain offsite improvements for the Housing Parcels, and (ii) to pay certain mitigation costs with regard to the Housing Parcels, all as more specifically set out below. Additionally, the Seller has agreed to place up to One Million Five Hundred Thousand Dollars (\$1,500,000) into an interest bearing account, the interest on which shall be applied to sums that may be required under an agreement with the San Francisco Public

Utilities Commission for the use of the surface of the Hetch Hetchy water system property containing approximately 3.1 acres for use as a neighborhood park (as more particularly described below).

F. After the Close of Escrow, Buyer intends to convey to an experienced developer of affordable housing units (the "Affordable Housing Developer") certain portions of Parcel C for the Affordable Housing Developer to develop, finance, construct and operate the affordable rental housing to be located on Parcel C and perform the obligations of Buyer with respect thereto.

G. Seller and Buyer desire to enter into an agreement pursuant to which Seller agrees to sell to Buyer, and Buyer agrees to acquire from Seller, the Housing Parcels on the terms and conditions set out below.

Now, therefore, Seller and Buyer agree as follows:

ARTICLE 1 DEFINITIONS

For purposes of this Agreement the following terms shall have the following meanings:

1.1 Additional Deposit. The sums described in Section 3.2.

1.2 Approved Mitigations. The actual cost and/or performance of the items set forth in Section B of Attachment No. 1.

1.3 Buyer's Parties. Buyer and Buyer's consultants, contractors, agents and employees.

1.4 City. City of Milpitas.

1.5 Closing Date. The date set forth in Section 13.3.

1.6 Days. Calendar days, provided if the day for performance falls on a weekend or a legal holiday (as defined in the Civil Code), the time for such performance shall be extended until the next following working day.

1.7 Deposit. The Initial Deposit described in Section 3.1 and the Additional Deposit described in Section 3.2.

1.8 Effective Date. The date that the County Board of Supervisors has approved this Agreement and the Agreement has been executed by the last of Buyer and Seller.

1.9 Entitlements. All approvals and authorizations from the City or any other governmental entity having jurisdiction over the Housing Parcels that Buyer deems necessary or appropriate for the development of the Housing Parcels into the number of residential housing units as contemplated by Buyer and this Agreement, including, without limitation, a general plan amendment, specific plan amendment, planned development zoning, architectural and site

approval, preparation, circulation and certification of an environmental impact report, if necessary, site and development approval, approval of infrastructure plans, park and open space allocation and design, City determination of dedication requirements, approval of a vesting tentative map, approval of one or more final subdivision maps, receipt of encroachment permits from the Santa Clara Valley Water District, issuance of permits for construction of all infrastructure, all offsite improvements, and the improvements on the Housing Parcels, a development agreement with the City, and such other discretionary approvals from the City and any applicable governmental agency as Buyer deems reasonably necessary for Buyer's residential development of the Housing Parcels.

1.10 Hazardous Materials Compliance Costs. Any out-of-pocket cost, fee or expense reasonably incurred directly to satisfy any requirement for environmental investigation or remedial action imposed on Seller or Buyer by a Regulatory Agency (as defined below) in order to bring the Housing Parcels into compliance with applicable Environmental Laws (as defined below) directly relating to the existence on the Housing Parcels of any Qualifying Hazardous Material (except any Hazardous Material introduced or brought onto the Housing Parcels by any of Buyer's Parties and except any Hazardous Material introduced on or brought onto the Housing Parcels after Escrow Closing by any party other than Seller). Hazardous Materials Compliance Costs shall include, without limitation, costs to develop and obtain approval for investigation plans, costs of soil and/or groundwater sampling and preparation, submission and approval of reports related thereto, the cost of analysis, review and approval of remediation plans, cost of development and/or review of design and engineering for any remedial work, the costs to obtain permits and authorizations to perform site investigations or remedial work, and the cost of actual field work performed, including the cost, operation, maintenance and repair of remedial equipment. Hazardous Materials Compliance Costs do not include investigation costs incurred by Buyer as part of Buyer's due diligence investigation of the Property.

1.11 Environmental Laws. Any of the following as they may be amended from time to time prior to Escrow Closing: (a) Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 (14); (b) section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321; (c) section 1004 and section 3001 of the Resource and Conservation and Recovery Act, 42 U.S.C. §§6903, 6921; (d) Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (e) section 112 of the Clean Air Act, 42 U.S.C. § 7412; (f) the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4); (g) California Health & Safety Code; (h) any other federal, state or local laws, statutes, regulations, orders or rules under which materials and wastes, including Hazardous Materials, are, or in the future become, regulated for the protection of health or the environment; and (i) all rules and regulations promulgated under the aforementioned laws.

1.12 Attachment 1B Mitigation Costs. The actual cost required to be paid for the Approved Mitigations or any work required in connection therewith, or to remediate any Attachment 1B Matter (as defined in Section 10.5) relating to the (a) implementation of a plan to exclude and/or relocate the burrowing owl or other protected species from the site and mitigation of wetlands, if any; (b) payment of in-lieu fees and related costs to the California Department of Fish and Game for the acquisition of replacement habitat, or to an organization providing that service, and (c) protecting, exhuming, securing, transporting, studying and reporting archeological discoveries on the Property.

1.13 Escrow Closing. The date all documents required to be recorded hereunder are recorded in the Official Records of Santa Clara County.

1.14 Escrow Holder. First American Title Guaranty Company, 1737 North First Street, Suite 100, San Jose, CA 95112. The escrow officer is Dian Blair, at (408) 451-7800.

1.15 Hazardous Materials. The term "Hazardous Materials" shall have the meaning set forth in Exhibit C.

1.16 Housing Parcels. The property described in Recital B to this Agreement.

1.17 Including. When used in this Agreement, "including" shall be illustrative only and shall not be read to exclude any items that may not be contained in any listing of specific items that may follow the word "including". "Including" shall be deemed to mean "including without limitation".

1.18 Initial Deposit. The sums described in Section 3.1.

1.19 Park Escrow. The sum of up to One Million Five Hundred Thousand Dollars (\$1,500,000) to be placed by Seller into a separate account (as agreeable to the City) for purposes of applying earned interest to the payment of sums due under the PUC agreement (as described below).

1.20 Title Insurer. First American Title Insurance Company.

1.21 Parcel B. That portion of the Seller's Entire Property described on Exhibit B as Parcel B.

1.22 Parcel C. That portion of the Housing Parcels described on Exhibit B as Parcel C.

1.23 Parcel D. That portion of the Housing Parcels described on Exhibit B as Parcel D.

1.24 Permitted Exceptions. Those title exceptions that Buyer has approved pursuant to the provisions of Article 5.

1.25 Purchase Price. Fifty Seven Million Seven Hundred Fifty Thousand Dollars (\$57,750,000), subject to adjustment pursuant to Article 2 below.

ARTICLE 2 AGREEMENT OF PARTIES

2.1 Agreement to Sell. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Housing Parcels at the Purchase Price, subject to the terms and conditions set forth in this Agreement. Seller has entered this Agreement for the sale of the entire property contained within the Housing Parcels. Such entire property shall include fee title to the Housing Parcels and all of Seller's right, title and interest in and to all entitlements, easements, rights, mineral rights, oil and gas rights, water, water rights, air rights, development rights and

privileges appurtenant thereto and all improvements located thereon. Subject to Buyer's right to extend the Parcel C Closing Date and the terms and conditions set forth herein, Buyer must purchase all of the property contained within the Housing Parcels.

2.2 Allocation of Purchase Price. The Purchase Price is allocated between Parcel C and Parcel D as follows:

Parcel C	\$17,750,000
Parcel D	\$40,000,000

2.3 Park and Common Area Requirement. The Purchase Price has been determined in part based on the parties' judgment that as a condition to the Entitlements the City will require no more than a total of six and one-half acres of improved public parks and park/common area with regard to the Housing Parcels. Seller shall use best efforts to negotiate with the San Francisco Public Utilities Commission ("PUC") a ground lease or license pursuant to which the surface of the Hetch Hetchy right of way located between the Elmwood facility and Parcel D (that the parties believe contains approximately three and one-tenths acres) can be developed and used for park purposes and applied to the City's 6.5 acre park requirement. Within ten (10) days after the Effective Date, Buyer shall deliver a proposed park plan for the Hetch Hetchy property preliminarily acceptable to Buyer and the City to Seller to assist Seller in its negotiations with the PUC. Either Seller or the City will be the contracting party with the PUC. Unless the park land dedication required in connection with the Entitlements for the development of the Property is met with other property, Buyer shall obtain, prior to the Escrow Closing and as a condition precedent to Buyer's obligation to close escrow on the Housing Parcels, a written agreement from the City that the Hetch Hetchy right of way land shall be applied to the City's park requirement for the development of the Housing Parcels. Seller shall assist and cooperate with Buyer in obtaining such agreement from the City, at no cost to Seller. If an agreement is negotiated with the PUC (the "PUC Agreement"), at Escrow Closing, if Seller is a party to the agreement, Seller will assign its rights in the PUC Agreement to the City and the City will assume Seller's obligations thereunder (subject to City's right to interest from the Park Escrow Fund to be used for the purpose of offsetting portions of payments, not to exceed available interest, for the period of the lease or license agreement). If the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) placed in the Park Escrow Fund is not sufficient to pay all costs for use of the Hetch Hetchy right of way land for park use, Seller shall give written notice of such fact to Buyer. Within thirty (30) days after receipt of Seller's notice, Buyer shall have the right, by giving written notice to Seller and Escrow Holder, to elect to (i) pay the amount in excess of One Million Five Hundred Thousand Dollars (\$1,500,000) required to pay the costs for the use of the Hetch Hetchy right of way land for park use, or (ii) terminate this Agreement, in which case Seller shall promptly return the Additional Deposit to Buyer, and neither party shall have any further obligation hereunder except for those obligations that expressly survive the termination of this Agreement. Notwithstanding the foregoing, if Buyer elects not to terminate this Agreement, Buyer shall be responsible for the cost of park improvements on the Hetch Hetchy Land required by the Entitlements. If the City requires that more than an aggregate of six and one-half acres contained within the Housing Parcels be set aside to satisfy the City park requirements, and if as a direct result of the City's additional property requirement for park use (and for no other reason) the number of for sale units on the

Housing Parcels is fewer than six hundred and thirteen (613), then the Purchase Price allocated to Parcel C will be reduced pursuant to the formula described below. First, the actual purchase price for each gross square foot contained in the Housing Parcels shall be determined by dividing the Purchase Price (of \$57,750,000) by the actual gross square footage of the Housing Parcels (as determined by a survey by a licensed surveyor and including property under streets and within easement areas). The original dollar purchase price for each gross square foot contained in the Housing Parcels (as determined pursuant to the preceding sentence) shall be multiplied by the difference between (a) the total gross square feet required by the City for park purposes less (b) two hundred eighty three thousand one hundred forty square feet (6.5 times 43,560). The reduction in the Purchase Price shall apply to Parcel C. If after using best efforts, Seller is not able to reach agreement with the PUC, and the park land dedication required by the Entitlements can be satisfied through payment of in-lieu park fees, then Seller may pay the in-lieu park fees in lieu of establishing the Park Escrow; provided, that any in-lieu park fees in excess of One Million Five Hundred Thousand shall be paid by Seller from funds outside of Seller's Funds (as defined in Section 9.1). The obligation to pay such excess funds shall be a Retained Obligation of the County of Santa Clara pursuant to Section 16.13 upon any assignment of this Agreement to the RDA.

ARTICLE 3 PAYMENT OF DEPOSIT

3.1 Initial Deposit. Within five (5) business days following the Effective Date, Buyer shall deposit with Escrow Holder the sum of One Million Five Hundred Thousand Dollars (\$1,500,000) ("Initial Deposit"), together with instructions to release the Initial Deposit to Seller immediately after Escrow Holder receives the Deposit and Escrow Holder has recorded the Memorandum (as defined in Section 16.13 hereof) in the Official Records of Santa Clara County. If Buyer fails to deliver the Initial Deposit to Escrow Holder within five (5) days after receipt of written notice from Seller that such payment is delinquent, then this Agreement shall automatically terminate.

3.2 Additional Deposit. On or before the one hundred eightieth (180th) day following the Effective Date, Buyer shall deposit with Escrow Holder the additional sum of One Million Dollars (\$1,000,000) ("Additional Deposit") together with instructions for Escrow Holder to release the Additional Deposit immediately to Seller. If Buyer fails to deliver the Additional Deposit to Escrow Holder within five (5) days after receipt of written notice from Seller that such payment is delinquent, then this Agreement shall automatically terminate, and Seller shall retain the Initial Deposit as liquidated damages pursuant to Article 15 hereof.

3.3 Disposition of Deposit. Once delivered, the Initial Deposit and the Additional Deposit shall be non-refundable to Buyer, except on Seller's default hereunder after notice and failure to cure and except as otherwise provided in Sections 2.3, 5.1, 5.2, 7.4, 9.2.2, 9.2.5, 11.2, 13.2.1 and 15.2 of this Agreement. At Escrow Closing the Deposit shall be credited (as described below) to Buyer as a part of the Purchase Price hereunder. In the event that Buyer breaches its obligation to purchase the Housing Parcels, then Seller may retain the amount of the Deposit it has received as of the date of such breach as liquidated damages in accordance with Article 15 hereof. The Deposit shall be allocated against the Purchase Price of Parcel C and Parcel D at Escrow Closing as follows:

<u>Deposit</u>	<u>Parcel D</u>	<u>Parcel C</u>
Initial Deposit	\$1,000,000	\$500,000
Additional Deposit	\$ 500,000	\$500,000

ARTICLE 4 PAYMENT OF PURCHASE PRICE

At Escrow Closing for Parcel C or Parcel D, as the case may be, Buyer shall pay the balance of the Purchase Price, after deduction for the designated portion of the Deposit, to Seller in cash in immediately available funds via wire transfer.

ARTICLE 5 TITLE

5.1 Title Condition. Buyer has received a preliminary title report from the Title Company, PTR 0129-611655ALA, dated as of May 7, 2003 ("Title Report"). The Title Report covers Parcels C and D and other land owned by Seller that is not subject to this transaction. Buyer has reviewed the Title Reports and the exceptions described therein. Buyer has requested that the Title Company provide updated title reports limited only to Parcels C and D, legible copies of all documents referenced therein as exceptions to title and a plot map showing the location of all easements referenced therein ("Updated Title Reports"). Buyer shall have thirty (30) days after its receipt of the Updated Title Reports to deliver to Seller and Escrow Holder written notice of Buyer's approval, conditional approval or disapproval of the title matters disclosed in the Updated Title Reports. All matters not timely approved by Buyer shall be deemed disapproved. All such exceptions disapproved by Buyer are referred to herein as "Disapproved Exceptions". If Buyer gives Seller written notice of Disapproved Exceptions within said thirty (30) day period, then Seller shall within thirty (30) days after Seller's receipt of Buyer's notice elect take the action in either Section 5.2.1 or 5.2.2 with respect to the Disapproved Exception. If Seller elects to take the action in Section 5.2.2, then Buyer may elect to terminate this Agreement by giving written notice to Seller and Escrow Holder, in which event Seller shall return the Deposit to Buyer, and neither party shall have any further obligation hereunder except for those obligations that expressly survive the termination of this Agreement. Buyer acknowledges that the description of Parcel D includes approximately 7 acres contiguous to State Highway 880 which are not a part of Parcel D and which 7 (more or less) acres will be subdivided into a separate legal parcel and a roadway when Buyer's final subdivision map is recorded. Buyer's duty to purchase the Housing Parcels shall be conditioned upon Title Insurer issuing at Escrow Closing its CLTA owner's policy of title insurance insuring Buyer as owner of the Housing Parcels in the amount of the Purchase Price subject only to the following exceptions ("Permitted Exceptions"):

- A. Those exceptions in the Updated Title Reports not disapproved or deemed disapproved by Buyer;
- B. The lien of current taxes not delinquent;
- C. The lien of any special assessments;

D. Any items that attach to title as a result of Buyer's entitlement activities or of any other action of Buyer; and

E. Any other items that may attach to title except only items voluntarily placed of title by Seller or as a result of an act or omission of Seller that are approved by Buyer pursuant to Section 5.2.

5.2 New or Additional Exceptions. Following execution of this Agreement, Seller shall not place or voluntarily allow to exist any additional liens or encumbrances on the Property without the prior written consent of Buyer. If any supplement to the Updated Title Reports that may be issued from time to time by the Title Company discloses any new or additional exceptions from the exceptions shown on the Updated Title Reports, Buyer shall approve or disapprove, in its sole and absolute discretion, such new exceptions within five (5) business days after Buyer receives written notice of such new exception(s), unless such exception arises from the acts or omissions of Buyer or Entitlements sought by Buyer, in which case Buyer shall be responsible for removing such exception and/or shall be required to take title subject to such exception. Buyer's failure to respond in such five (5) day period shall constitute such exception a Disapproved Exception. If Buyer disapproves or is deemed to disapprove any such new exception(s), Seller shall have sixty (60) days after Buyer's disapproval or deemed disapproval to elect either of the following:

5.2.1 To agree to use diligent efforts to remove such Disapproved Exception from title or to cause the Title Company to endorse over the Disapproved Exception pursuant to an endorsement acceptable to Buyer in its sole discretion. If Seller makes the foregoing election, Seller shall use diligent efforts to cause the Disapproved Exceptions to be removed from title on or before Escrow Closing. If, after using diligent efforts, Seller has failed to remove or endorse over such Disapproved Exception at Escrow Closing, Buyer shall give written notice of such fact to Seller and the Escrow Closing shall be extended for five (5) business days to allow Seller to remove or endorse over such Disapproved Exception. If Buyer fails to remove or endorse over the Disapproved Exception with said five (5) business day period, then such failure shall not be a default hereunder, but Buyer may terminate this Agreement in which event Seller shall return to Buyer the Deposit, and neither party shall have any further obligation hereunder except for those obligations that expressly survive the termination of this Agreement.

5.2.2 Not to remove the Disapproved Exception or to cause the Title Company to endorse over the Disapproved Exception. If Seller elects not to remove or endorse over such Disapproved Exception, then Buyer may elect to terminate this Agreement in which event Seller shall return to Buyer the Deposit, and neither party shall have any further obligation hereunder except for those obligations hereunder that expressly survive the termination of this Agreement. Notwithstanding anything contained in this Article 5, Seller shall be obligated to remove and eliminate as exceptions to title all monetary liens or encumbrances. In addition, Seller shall terminate the Divot City and Santa Clara County financing lease as to the Housing Parcels and any other existing lease, license or other agreement allowing any person or entity to occupy the Housing Parcels or any portion thereof and cause such persons or entities to vacate the Housing Parcels prior to Escrow Closing. Seller's failure to remove and eliminate as exceptions to title any monetary liens or encumbrances, the Divot City and Santa Clara County

financing lease, and any other existing lease, license or other agreement that grants occupancy rights with respect to the Housing Parcels and removal of all such occupants shall be a default hereunder. Seller's failure to remove or endorse over as exceptions to title all claims to fee title and any adverse claim as to a possessory interest in the Housing Parcels (other than the Divot City, Santa Clara County financing lease and any other existing lease, license or occupancy agreement) shall not be a default hereunder, but if such claims are not removed from title or endorsed over prior to the Escrow, subject to extension as provided in this Section 5.2, then Buyer may terminate this Agreement in which event Seller shall return to Buyer the Deposit.

ARTICLE 6 COVENANTS OF BUYER

Buyer covenants and agrees as follows:

6.1 Submission of Application. On or before June 20, 2003, Buyer submitted to the City an application (the "Application") for the Entitlements. On July 14, 2003, the City certified the Application as complete. As a result, the parties acknowledge that the Application is subject to the City's development fee structure in effect as of July 14, 2003 and that such fee schedule shall govern all fees paid by Buyer pursuant to the Application. The Buyer's Application includes Entitlements for Seller's Parcel B. Buyer will work diligently with the City to process the Application and obtain the Entitlements for (i) not fewer than 403 for sale housing units on Housing Parcel D, (ii) not fewer than 104 rental housing units and 210 for sale housing units on Parcel C and (iii) for the Parcel B Entitlements described in the Application. Buyer shall process all applications, plans, maps, agreements, documents and other instruments necessary or appropriate to obtain Entitlements for the development of the Housing Parcels as contemplated by Buyer and this Agreement, including processing to approval a Tentative Map for each of Parcel C and Parcel D subdividing the Housing Parcels into the number of residential parcels and/or units required by Buyer on which may be constructed the number of residential units in accordance with Buyer's development plans for the Housing Parcels, and otherwise in form and content satisfactory to Buyer in Buyer's sole and absolute discretion. As used in this Agreement, the Entitlements shall be deemed to be approved when: (i) (a) the City Council has voted to approve or the City has issued a written decision approving each Entitlement application and establishing all conditions of approval thereof, which Entitlements subdivide the Housing Parcels into the number of residential parcels and/or lots required by Buyer and allow Buyer to construct the number of residential units required by Buyer in accordance with Buyer's development plans for the Housing Parcels and this Agreement, (b) the Entitlements and the conditions of approval therefore have been approved by Buyer in its sole and absolute discretion, and (c) all time periods for filing an appeal of the City's approval of the applicable Entitlements have passed without such an appeal having been filed, or, if an appeal has been filed, it has been resolved on terms and conditions satisfactory to Buyer in its sole and absolute discretion; and (ii) the Property is zoned to permit multi-family residential use with a density of at least the number of residential units required by Buyer and this Agreement, subject to reduction for the City park land requirements, as described in Section 2.3 above, and, if applicable, all time periods for filing an appeal of the City's approval of the rezoning of the property have passed without such an appeal having been filed, or, if an appeal has been filed, it has been resolved on terms and conditions satisfactory to Buyer in its sole and absolute discretion.

6.2 Milestones. Concurrently with Buyer's signing of this Agreement, Buyer shall deliver to Seller Buyer's schedule for the processing of the Applications, which schedule shall set out, as milestones, scheduled dates for Buyer's interim submittals, City or staff approvals, hearings and the like in order for the parties to monitor the City's progress toward Entitlement approval for Parcels B, C and D. For all Parcels, the milestones shall include dates related to: general plan amendment, specific plan amendment, planned development zoning, architectural and site approval, submittal of draft environmental impact report (or other required environmental information), response to EIR, CEQA approval by council, expiration of CEQA appeal period, submittal of infrastructure plans, approval of infrastructure plans, park and open space allocation and design, City determination of dedication requirements, submittal of tentative subdivision map, approval of tentative subdivision map, encroachment permits from Santa Clara Valley Water District, issuance of all permits for construction of all infrastructure, all offsite improvements, issuance of all permits for construction of improvements on Parcel D, issuance of all permits for construction of improvements on Parcel C, and other milestones that Buyer identifies as significant for the Housing Parcel developments, and schedules for construction of all infrastructure and offsite improvements. Buyer shall keep Seller informed of the progress of the Buyer's Applications. Buyer shall promptly provide Seller with copies of any correspondence received from the City. Seller shall receive copies of all reports, plans and correspondence from the City at the same time the same become available to Buyer. Buyer shall give Seller notice of any major meetings with City staff and Seller shall have the right to attend such meetings.

6.3 General Plan/Specific Plan Amendments. In making its submittals to the City for Entitlements, Buyer will include Parcel B as part of Buyer's General Plan amendment and Specific Plan amendment in order to obtain on or before Escrow Closing for Parcel D necessary environmental and pre-development approvals for Parcel B simultaneously with approvals for the Housing Parcels. Seller shall reimburse Buyer at Escrow Closing for Buyer's additional third party costs (such as engineering, application fees, design fees), if any, incurred as a result of Buyer including Parcel B in Buyer's Entitlement applications. Buyer shall deliver to Seller a monthly invoice and description of the additional work, back up invoices from Buyer's consultants and contractors and other relevant information that Seller reasonably requests with respect to such additional third party costs. Except for such additional third party costs incurred as a result of including Parcel B in Buyer's Entitlement applications and those costs for which Buyer is entitled to reimbursement pursuant to Article 9 below, Buyer shall pay all Entitlement and developments costs and permit fees with regard to the Housing Parcels, including planning fees for general and specific plan and zoning amendments, design and engineering fees, new construction planning fees, sewer treatment plant fees, building permit fees, water connection and fire hydrant fees, water meter fees, seismic mapping fees, school impact fees, and utility installation and connection fee. The obligation of Seller with respect to Parcel B as set forth in this Section 6.3 shall be the sole obligation of the County of Santa Clara and shall be a Retained Obligation upon any assignment of this Agreement by Seller to the RDA.

6.4 Access and Testing. At any time during the term of this Agreement, Buyer, its agents and employees and contractors shall have the right, upon twenty-four (24) hours advance written notice to Seller, to enter the Housing Parcels and Parcel B, for the purposes of conducting such investigations, inspections and tests of the Housing Parcels and Parcel B as Buyer deems necessary to obtain all Entitlements to enable Buyer to develop the Housing Parcels as

contemplated by Buyer and to determine the condition and suitability of the Housing Parcels. Notwithstanding the foregoing, Buyer shall not be permitted to undertake any intrusive or destructive testing of the Housing Parcels, including deep borings in the Housing Parcels or other intrusive testing, except with Seller's written consent thereto, which consent Seller shall not withhold unreasonably. If Buyer desires to engage in deep borings or other invasive testing on the Housing Parcels, Seller shall have the right to approve the contractor performing the work, may review the plan before work begins, may observe the work and, if Seller desires, have samples tested by an independent laboratory. Seller's approval of any intrusive or invasive testing, any contractor performing the same and any plan for such testing shall be given or denied within five (5) days of Buyer's request. Seller's failure to give or deny consent within said five (5) day period shall be deemed Seller's approval thereof. Buyer shall use care and consideration in connection with all of its inspections or tests. Buyer shall restore the Housing Parcels and Parcel B as near as reasonably possible to its condition prior to any intrusive or invasive tests and/or inspections. Buyer shall deliver to Seller, within five (5) days of Buyer's receipt thereof, copies of any final reports relating to any inspections, tests or investigations of the Housing Parcels performed by or on behalf of Seller. Prior to any entry onto the Housing Parcels and Parcel B, Buyer shall secure and maintain: (a) a comprehensive general liability and property damage policy in an amount of not less than Two Million Dollars (\$2,000,000) and, with a deductible (or self-insured retention) in an amount reasonably acceptable to Seller, which will cover the activities of Buyer and its agents and consultants on the Housing Parcels and Parcel B, which shall (i) name Seller an additional insured thereunder, (ii) contain a cross-liability endorsement and (iii) provide that the insurance maintained by Buyer shall be primary and non-contributing with any other insurance available and (b) workers' compensation and employer's liability insurance in accordance with the provisions of California law. Buyer shall provide a certificate of insurance to Seller evidencing the insurance required herein. Buyer hereby agrees to indemnify, defend (with counsel reasonably satisfactory to Seller) and hold Seller, its employees, agents, and representatives harmless from and against any and all loss, expense, claim, damage and injury to person or property resulting from the acts of Buyer, Buyer's agents, contractors and/or subcontractors and/or the contractors or subcontractors of such agents on the Housing Parcels and Parcel B in connection with the performance of any investigation or other activities upon the Property as contemplated herein. The foregoing indemnity, defense and hold harmless obligations do not apply to (a) any loss, liability, cost, claim, damage, injury or expense to the extent arising from or related to the willful misconduct or negligent acts or negligent omissions of Seller, (b) any diminution in value in the Housing Parcels or Parcel B arising from or relating to matters discovered by Buyer during its investigation of the Housing Parcels or Parcel B, (c) any latent defects in the Housing Parcels or Parcel B discovered by Buyer, and (d) the release or spread of any Hazardous Materials which are discovered (but not deposited) on or under the Housing Parcels or Parcel B by Buyer so long as Buyer uses care and consideration in performing its investigation. Buyer's indemnity obligations under this Section 6.4 shall survive the termination of this Agreement and Escrow Closing.

6.5 Parcelization. Prior to Escrow Closing, Buyer shall cause the Housing Parcels to be divided into legally subdivided parcels in substantially the configuration shown on the map pursuant to a subdivision map, parcel map or lot line adjustment to be included in the City's Entitlements. Such subdivision map, parcel map or lot line adjustment shall be submitted to the City when the City has approved the subdivision map, parcel map or lot line adjustment.

conditions satisfactory to Buyer in its sole and absolute discretion and, if applicable, all time periods for filing an appeal of such City approval have passed without such an appeal having been filed, or if an appeal has been filed, it has been resolved on terms and conditions satisfactory to Buyer in its sole and absolute discretion. The parties acknowledge that Parcel C is currently a separate legal parcel. If a subdivision map, parcel map or lot line adjustment has not been approved prior to the last day scheduled for Escrow Closing pursuant to Section 13.3, Seller may convey Parcel D to Buyer pursuant to a metes and bounds description; provided, however, Buyer shall only be required to accept conveyance of Parcel D by a metes and bounds legal description if (a) Seller has (i) given prior notice of such metes and bounds conveyance to the City of Milpitas, (ii) Seller has made such dedications as the City may require, if any, under applicable law in connection with the metes and bounds conveyance (which dedications shall be acceptable to Buyer in its sole and absolute discretion), and (iii) if necessary, Seller has successfully refuted any attempt under Government Code section 66428(a)(2) to show that public policy requires a parcel map for Parcel D, and (b) Buyer is able to obtain the Title Policy based on such metes and bounds description. Buyer shall provide Seller with a survey sufficient to permit conveyance and title insurance if a metes and bounds description is required because the subdivision map, parcel map or lot line adjustment has not been approved prior to the Escrow Closing.

6.6 Buyer's Documents. If for any reason except Seller's default, Buyer fails to close escrow with regard to either or both of the Housing Parcels, then Buyer shall deliver to Seller, at no cost to Seller, within ten (10) days after Seller's written request, all of Buyer's environmental reports and studies, soils and geologic reports, utility constraints, hydrology studies, inspection or due diligence reports and topographic maps, if any, prepared by Buyer with respect to the Housing Parcels ("Buyer's Work Product"). Seller acknowledges that Buyer's Work Product will not include any economic proformas or financial projections, marketing plans or other proprietary material generated by or on behalf of Buyer, except for architectural plans as provided in Section 6.6.1.

6.6.1 Assignment of Architectural Materials.

(a) Assignment. If Buyer fails to close escrow for any reason except Seller's default, then upon Buyer's receipt of the Deposit and any other funds Buyer is entitled to receive from Seller as a result of such termination, without the need for any additional documentation unless reasonably requested by Seller and reasonably approved by Seller, Buyer shall grant to Seller, the limited right and license to use all architectural plans, working drawings, designs and renderings of housing units ("Units") and other improvements proposed to be constructed by Buyer or Buyer's assignee (if such assignee will use Buyer's Architectural Plans) on the Housing Parcels ("Architectural Plans") exclusively for the purposes of constructing and marketing the Units to be built and sold by Seller or Seller's assignee on the Housing Parcels. Such Architectural Plans are delivered by Buyer without warranty, express or implied (except that Buyer warrants that it has paid for the same in full), and in their "AS IS" condition. Seller acknowledges and agrees that: (a) Seller shall only be entitled to use such Architectural Plans in building Units on the Property and at no other location; (b) the Architectural Plans may not be sold or otherwise transferred or assigned, except to a purchaser of the Housing Parcels, but only after such purchaser signs a written agreement acknowledging and agreeing to the terms and conditions of the license and provides Buyer with an indemnity and release substantially similar

to the applicable provisions set forth in Section 6.6.1(b) below, (c) the names KB HOME South Bay Inc., KB HOME or any variation thereof shall not be used or referenced in connection with the construction or marketing of any Units built based upon the Architectural Plans; (d) the Architectural Plans were in the process of being prepared for Buyer's purposes, the details and specifications of such plans have not been completed and may not meet industry standards, and prior to its use of the Architectural Plans, Seller shall have its own architects and structural engineers certify that the Architectural Plans are free from errors, omissions or other defects and shall make such revisions to the Architectural Plans to enable Seller's architect and structural engineer to make such certification, and (e) neither Seller nor its successors and assigns shall be entitled to enforce against Buyer or any other third parties any rights, claims (including copyright infringement claims) or demands relating to or in any way connected with state or federal copyright protection of the Architectural Plans, all such copyrights and protections being fully retained by Buyer, KB HOME South Bay Inc., and KB HOME, as their interests may appear.

(b) Indemnity and Release. Seller shall indemnify, defend and hold Buyer, KB HOME, and their directors, officers, employees, agents, assignees, shareholders, affiliates and representatives (collectively "Indemnitees") harmless from any loss, damage, injury or claim of any kind or character to any person or property arising from, caused by or relating to Seller's use of the Architectural Plans, including without limitation, any claims relating to errors or omissions or construction defects. The foregoing indemnity shall include reasonable attorney's fees and costs of court. Seller hereby releases Buyer and the Indemnitees from and waives on its behalf, and on behalf of its successors and assigns, all claims, demands and causes of action against Buyer and the Indemnitees for any loss, liability, damage, cost, expense, injury or claim including attorneys' fees and costs of court relating to Seller's use of the Architectural Plans as described in the preceding sentence (collectively, "Losses"). The foregoing release and waiver and the indemnity and obligation to defend and hold harmless (i) shall apply to any claim or action brought by a private party or by a Governmental Authority, or any law, statute, ordinance or regulation now or hereinafter in effect, (ii) shall apply with respect to all Losses before or after the conveyance of all Units on the Housing Parcels; and (iii) shall apply to Losses incurred by Buyer or any Indemnitee or their property as well as by Seller or any third parties and their property. With respect to design, construction methods, materials, locations and other matters for which Buyer has given or will give its approval, recommendation or other direction, the foregoing release and waiver and the indemnity and obligation to defend and hold harmless shall apply irrespective of Buyer's approval, recommendation or other direction. Seller acknowledges that it has been advised by its legal counsel and is familiar with the provisions of California Civil Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Seller hereby expressly waives any right it may have under Civil Code Section 1542 as well as under any other statute or common legal principle of similar effect.

6.7 Compliance with Requirements. Buyer shall (i) comply with the Redevelopment Plan for the Housing Parcels, (ii) comply with City's building, planning and zoning requirements including without limitation the City's General Plan and the Midtown Specific Plan, as such may be amended, and (iii) RDA's affordable housing requirements for the Housing Parcels.

ARTICLE 7 COVENANTS OF SELLER

Seller covenants and agrees as follows:

7.1 Access to the Property. To allow Buyer's Parties access to the Housing Parcels in accordance with Section 6.4 hereof during business hours, after having received at least twenty-four (24) hours prior written notice, to engage in such studies, inspections, soils tests, ground water tests and other activities, as Buyer deems necessary (and as often as may be necessary) for Buyer to properly determine the physical and structural condition of the Housing Parcels.

7.2 Delivery of Reports. If Seller has not previously done so prior to such date, not later than the date five (5) days after the Effective Date, Seller shall deliver or cause to be delivered to Buyer, or shall make available to Buyer at Seller's offices, legible and complete copies of all studies, reports, agreements, documents, plans, permits and entitlements readily available and in Seller's or its agents' or consultants' possession, or readily obtainable by Seller, pertinent to the physical condition, current and prior use, ownership, development and improvement of the Housing Parcels (the "Reports"), including, without limitation, studies; reports; correspondence; agreements; documents; affordable housing agreements and materials; plans; maps; correspondence or other materials; permits; and entitlements and any other documents that Buyer may request. The Reports shall not include any of Seller's privileged client communications, but shall include all documents in the nature of a Report attached to such communications. The Reports shall include, without limitation, copies of any and all environmental reports and materials, if any, relating to the Housing Parcels that are in Seller's, or its agents' or consultants' possession ("Existing Environmental Reports"). The County of Santa Clara owned the Housing Parcels for more than forty years. During that period, the Housing Parcels have been rented from time to time to third parties (including Divot City) and the County entered into contracts for work on the Housing Parcels (such as weed control and disking). Further, from time to time, the County evaluated the possibility of developing the Housing Parcels (and in conjunction with one such evaluation entered into the Divot City lease). When the owner of the Divot City Lease declared bankruptcy, the County participated in the bankruptcy court process pursuant to which the County purchased the leasehold. The documents related to such leasehold purchase are not included in the definition of "Reports". For purposes of the Seller's obligations under this Section 7.2, except for Existing Environmental Reports and any other reports or studies related to the physical condition of the Housing Parcels and subject to Section 8.7, Reports shall be deemed to exclude the following: (i) any RDA reports (except those reports relating to the physical condition of the Housing Parcels), (ii) information regarding prior leases no longer in effect and not showing as an exception to title, (iii) internal notes, memoranda, studies, budgets or other materials related to evaluations of possible prior developments of the Housing Parcels, (iv) documents related to negotiations with the RDA, (v)

and transmittals to the Board of Supervisors. Subject to the representation and warranty contained in Section 8.7, Seller will not be in default hereunder for an inadvertent failure to deliver a "Report" (other than Existing Environmental Reports or other documents directly related to the physical condition of the Housing Parcels) and that does not impart information directly relevant to Buyer's use and development of the Housing Parcels. Nothing in this Section 7.2 shall release Seller from any liability for failure to disclose a material fact regarding the Housing Parcels.

7.3 Maintain the Housing Parcels. At all times during the term of this Agreement, to maintain the Housing Parcels to the same standard as existed on the Effective Date.

7.4 Construction License for Parcel C. If Buyer exercises its right to extend the Parcel C Closing Date pursuant to Section 13.3.2 then, following Escrow Closing for Parcel D and upon Buyer's written request, Seller shall grant to Buyer a Construction License in the form attached hereto as Exhibit D with such modifications thereto as Seller and Buyer may agree in accordance with this Section 7.4 ("Construction License") to enter Parcel C for the purpose of commencing Parcel C work. Buyer shall provide Seller under the Construction License with no fewer than fifteen (15) days prior written notice of the commencement of any work on Parcel C in order for Seller to post notices of non-responsibility on Parcel C. In performing work on Parcel C under the Construction License, Buyer shall comply with all laws, statutes and ordinances, including CEQA requirements and mitigation measures required by the Approved Mitigations. Before commencing work Buyer shall deliver to Seller copies of permits for the work and evidence of the insurance required under the Construction License. The term of the Construction License shall automatically expire on the extended Closing Date for Parcel C and if Buyer defaults in its obligations hereunder, the Construction License shall expire on any earlier date of Buyer's default. Buyer shall take title to Parcel C subject to any title exceptions that may attach as a result of Buyer's entry onto Parcel C under the Construction License.

Promptly after the Effective Date, Seller shall provide Buyer with comments to the form of Construction License attached hereto as Exhibit D. Upon receipt of such comments, the parties shall cooperate to resolve their differences and reach agreement on a form of Construction License acceptable to Buyer. If Buyer and Seller have not reached agreement on the form of Construction License within forty-five (45) days after the Effective Date, then Buyer may elect either to (i) to proceed with this Agreement without an agreed form of Construction License or (ii) terminate this Agreement by giving written notice to Seller. In the event of termination, Seller shall immediately return the Deposit to Buyer, and neither party shall have any further obligation hereunder except for those obligations which expressly survive the termination of this Agreement.

ARTICLE 8 REPRESENTATIONS OF SELLER

Seller hereby represents and warrants to Buyer that, except as otherwise disclosed to Buyer, the following statements are true:

8.1 Permitted Exceptions. Except for the RDA Agreement (and any agreements or actions related thereto), the Permitted Exceptions and any agreements that have been consented

to in writing by Buyer, there are no leases, licenses, contracts or other agreements relating to the Housing Parcels that will be in force after the Escrow Closing.

8.2 Legal Proceedings. Except for (i) City actions to increase the limit on the tax increment revenue that may be allocated to the RDA and to increase the limitation on incurrence of RDA bonded indebtedness, and actions related thereto and (ii) Seller's action to remove from title an Amended Order entered October 15, 1982, by the Superior Court of the State of California, there is no pending (nor has Seller received any written notice of any threatened) action, litigation, condemnation or administrative action or other proceeding against the Housing Parcels or that would materially and adversely affect Seller's interest therein.

8.3 Compliance With Law. To Seller's knowledge, Seller has not received written notice from any governmental authority having jurisdiction over the Housing Parcels to the effect that the Housing Parcels are not in compliance with applicable laws and ordinances (including any laws concerning the use, generation, handling, disposal or storage of Hazardous Materials).

8.4 Notice From Insurers. To Seller's knowledge, Seller has not received any notice from any insurer of defects or conditions relating to the Housing Parcels that must be corrected.

8.5 Hazardous Materials. To Seller's knowledge, except as set forth in the Environmental Reports or as otherwise disclosed in writing to Buyer, there has been no release of any material known to Seller to be a Hazardous Material at or upon the Housing Parcels, in an amount which would, as of the date hereof, give rise to a Hazardous Material Compliance Cost.

8.6 Authority. This Agreement and all agreements, instruments and documents herein provided to be executed or to be caused to be executed by Seller are and at Escrow Closing will be duly authorized, executed and delivered by and are binding upon Seller.

8.7 True and Correct Documents. The Reports and Existing Environmental Reports made available for Buyer's review under Section 7.2 are true and correct copies of the documents in Seller's files and, with respect to those documents in the possession of Seller or its agents and consultants not made available to Buyer for review pursuant to Section 7.2, Seller has not failed to disclose any material fact regarding the physical and environmental condition of the Housing Parcels or other information relevant to Buyer's use and development of the Housing Parcels.

The phrase "to Seller's knowledge" shall mean the actual or constructive knowledge of (i) the County Executive and all employees in the County Executive's office, (ii) the County's Director of General Services Administration and the property manager in the County General Services Administration and (iii) all other County management level employees having jurisdiction over matters that are the subject of the foregoing representations and warranties, after due inquiry and investigation. The term "constructive knowledge" shall mean knowledge that is known or should have been known as a result of such investigation or inquiry. Each of the representations and warranties made by Seller in this Agreement, or in any Exhibit or on any document or instrument delivered pursuant hereto, shall be true and correct in all material respects on the date hereof, and shall be deemed to be made again as of the Escrow Closing, and

shall then be true and correct in all material respects. Seller shall notify Buyer immediately of any facts or circumstances which are contrary to the foregoing representations and warranties contained in this Article 8. Seller's representations, warranties and covenants contained in Article 8 shall survive Escrow Closing and the recordation of the Deed for a period of two years after the date of Escrow Closing.

ARTICLE 9

SELLER REIMBURSEMENT OBLIGATIONS FOR OFF-SITE AND OTHER COSTS

9.1 Seller Reimbursements to Buyer. Seller shall make funds in the amount of Twenty-one Million Dollars (\$21,000,000) available to pay or to reimburse Buyer for certain costs as more particularly described in this Article 9 ("Seller's Funds"). A portion of the Seller's Funds, from a portion of Seller's purchase proceeds from the RDA in the amount of Twenty Million Dollars (\$20,000,000), shall be funded into an escrow account ("Seller's Funds Escrow Account") pursuant to RDA Agreement. Seller shall cause the funds in the Seller's Funds Escrow Account to be invested in an interest-bearing account with all interest accruing to Seller. All such interest shall be added to Seller's Funds and shall be available for payment of the costs specified in this Article 9. Seller's Funds may be used for the following purposes: (i) up to One Million Five Hundred Thousand Dollars (\$1,500,000) shall be used to fund the Park Escrow for payments that may be required under the PUC Agreement for use of the Hetch Hetchy land as park land ("PUC Payments"), (ii) up to One Million Dollars (\$1,000,000) may be used for development of affordable housing on Parcel C ("Affordable Housing Subsidy"), (iii) up to One Million Dollars (\$1,000,000) may be used for Seller's Maximum Qualifying Hazardous Materials Expenses (as defined in Section 10.3.1.5) and (iv) the balance of Seller's Funds, plus any savings from the foregoing categories if the entire amounts specified above are not expended, shall be available to pay the cost of the Approved Infrastructure Work defined on Attachment No. 1 ("Approved Infrastructure Work"), to pay or perform any Approved Mitigations defined in Attachment No. 1, and to pay the cost of remediation of any Attachment 1B Matter (as defined in Section 10.5). Seller may request disbursements from the Seller's Funds Escrow Account to be made to Seller for (i) the PUC Payments and (ii) the Affordable Housing Subsidy by giving written notice to Buyer setting forth the amount to be disbursed for such purposes. If Seller seeks reimbursement for Approved Mitigations, Seller shall give written notice to Buyer setting forth the amount to be disbursement and the specific Approved Mitigation to be paid from such disbursement. Within fifteen (15) days after receipt of such notice, Buyer shall approve or disapprove the disbursement request with respect to such Approved Mitigations. Buyer shall not withhold consent to such disbursement if the amount of the disbursement sought for the Approved Mitigation is consistent with the Final Budget. Buyer's failure to disapprove the disbursement request within said fifteen (15) day period shall be deemed Buyer's approval of the disbursement request for such Approved Mitigations. Seller agrees that it will not permit any disbursement from the Seller's Funds Escrow Account for a purpose not specified in this Article 9. Seller shall reimburse Buyer from Seller's Funds following Escrow Closing in accordance with Sections 9.3, 9.4 and 9.5 for (i) third party costs incurred by Buyer in performing the Approved Infrastructure Work, (ii) Attachment 1B Mitigation Costs incurred by Buyer in paying and/or performing Approved Mitigations or in remediating or mitigating any Attachment 1B Matter and/or (iii) Hazardous Materials Compliance Costs incurred by Buyer in investigating and/or remediating any Qualified Hazardous Materials (collectively, "Buyer's Reimbursable Costs"). Seller may enter into

agreements with the City to pay some or all of Buyer's Reimbursable Costs, but as between Seller and Buyer, Seller shall be responsible for reimbursement of all Buyer's Reimbursable Costs up to the maximum amount of Seller's Funds. Upon Buyer's certification that it has submitted to Seller all its Buyer's Reimbursable Costs, but in no event later than the third (3rd) anniversary of the Escrow Closing ("Seller's Funds Escrow Termination Date"), Buyer's right to reimbursement hereunder shall expire and, thereafter, Seller shall have no continuing obligations to reimburse Buyer hereunder. After the Seller's Funds Escrow Termination Date, Seller may terminate the Seller's Funds Escrow Account and the balance shall be disbursed without any Buyer consent or approval. Buyer shall be solely responsible for payment of all its own costs and expenses, whether incurred before, or after, Escrow Closing, except for Buyer's Reimbursable Costs.

9.2 Approval of Plans, Budget and Bids for Approved Infrastructure Work.

9.2.1 Preliminary Plans. Within sixty (60) days from the Effective Date, Buyer shall prepare and submit to Seller, for Seller's review and approval, which approval shall not be unreasonably withheld, preliminary plans for the Approved Infrastructure Work and for the Parcel B Infrastructure Work ("Preliminary Infrastructure Plans"). Seller shall review the Preliminary Infrastructure Plans and shall deliver to Buyer its written approval or disapproval within fifteen (15) days from receipt. If Seller disapproves, it shall describe with specificity its reasons for disapproval. If Seller fails to deliver to Buyer Seller's written response within said fifteen (15) day period, Seller shall be deemed to have approved the Preliminary Infrastructure Plans. If Seller disapproves the Preliminary Infrastructure Plans, the parties shall cooperate to resolve their differences and develop Preliminary Infrastructure Plans that are acceptable to both parties.

9.2.2 Budget. Following preparation of the Preliminary Infrastructure Plans, and at such time as Buyer is able to obtain cost estimates for the Approved Mitigations, Buyer shall develop a preliminary budget for the Approved Infrastructure Work and Approved Mitigations ("Preliminary Budget") and shall submit the same to Seller. Seller shall approve or disapprove the Preliminary Budget in writing within fifteen (15) days from receipt thereof. If Seller disapproves of the Preliminary Budget, Seller shall describe with specificity the reasons for disapproval. Promptly after such disapproval, the parties shall cooperate to resolve their differences and develop a Preliminary Budget that is acceptable to both parties. Notwithstanding the foregoing, if the sum of the Preliminary Budget, PUC Payments, Affordable Housing Subsidy and Seller's Maximum Qualifying Hazardous Materials Expense exceeds Twenty-one Million Dollars (\$21,000,000), then Buyer shall notify Seller in writing of the amount of the excess and Buyer shall have the right, upon fifteen (15) days written notice to Seller and Escrow Holder, to terminate this Agreement, in which case, Seller shall return the Additional Deposit to Buyer, and neither party shall have any further obligation hereunder, except for those obligations hereunder that expressly survive the termination of this Agreement. Notwithstanding the foregoing, Seller shall have thirty (30) days following receipt of Buyer's termination notice to agree to pay the amount in excess of Twenty-one Million Dollars (\$21,000,000) and if Seller so elects, then this Agreement shall remain in full force and effect.

9.2.3 Final Plans. Once the Preliminary Infrastructure Plans and the Preliminary Budget have been prepared, Buyer shall cause final plans and drawings to be

prepared for submission to the City. Before the final infrastructure plans are submitted to Seller and/or the City, Buyer and Seller shall meet with the City Engineer to identify all City requirements for the Approved Infrastructure Work. In addition, Buyer shall deliver the final infrastructure plans to Seller for Seller's review prior to submission thereof to the City. Seller shall review the final infrastructure plans for conformity to the approved Preliminary Infrastructure Plans and may disapprove the final plans only if they contain material deviations from the approved Preliminary Infrastructure Plans. The final plans for the Approved Infrastructure Work, when approved by the parties, shall be designated the "Approved Final Infrastructure Plans." Buyer shall make material changes to the Approved Final Infrastructure Plans only with the prior written consent of Seller.

9.2.4 Bids. Before signing contracts for the Approved Infrastructure Work, Buyer shall obtain bids from not fewer than five (5) licensed contractors to perform the work according to the Approved Final Infrastructure Plans, or if Buyer itself will act as the general contractor, from not fewer than three (3) licensed subcontractors from each trade. Buyer shall inform Seller of the amounts of the bids for Seller's review and Seller and Buyer shall discuss the bids. Seller may disqualify any bidder by giving written notice of such disqualification and the reasons therefor within five (5) business days of receipt of the bids. Subject to Seller's approval of the Final Budget (as defined below), Buyer may accept any of the bids, unless the bidder has been disqualified by Seller. Prior to performing any work on Parcel B, Buyer must obtain Seller's consent to such work, which shall not be unreasonably withheld and a permit to enter Parcel B from Santa Clara County. If easements over one property (the Housing Parcels, on the one hand, and Parcel B or the Elmwood Facility, on the other hand) for the benefit, in whole or in part, of the other are proposed, the parties will mutually cooperate to provide easements so long as the proposed easement does not interfere with the potential development or uses of the burdened property or reduce the value of the burdened property. Any easements that are approved by both parties hereunder shall be deemed "Approved Easements". Seller shall reasonably cooperate with Buyer in granting any temporary construction easements or licenses that may be reasonably necessary for Buyer to perform the Approved Infrastructure Work. In addition, if requested by Buyer, Seller shall reasonably cooperate with Buyer in granting an easement if necessary for Buyer to locate the wall required between the service road and the Hetch Hetchy property.

9.2.5 Final Infrastructure Work Budget. At such time as the Approved Final Infrastructure Plans have been approved by the City, Buyer shall consult with Seller and/or the City to obtain the most current estimates of the costs of the Approved Mitigations. Promptly thereafter, Buyer shall prepare and submit to Seller, for review and approval, which approval shall not be unreasonably withheld, a final budget for the Approved Infrastructure Work and the Approved Mitigations ("Final Budget"). The Final Budget shall be based on the Preliminary Budget revised to address any additional costs raised by the City approval of the Approved Final Infrastructure Plans and the bids received by Buyer therefor and the most recent estimates of the cost of the Approved Mitigations. Seller shall approve or disapprove the Final Budget within fifteen (15) days from receipt thereof. If Seller disapproves, Seller shall describe with specificity the reasons for its disapproval. Seller may only disapprove the Final Budget if it contains material cost increases from the Preliminary Budget. If Seller disapproves the Final Budget, the parties shall cooperate to resolve their differences and develop a Final Budget that is acceptable to both parties. Notwithstanding the foregoing, if the sum of the Final Budget, the PUC

Payments, the Affordable Housing Subsidy, and Seller's Maximum Qualifying Hazardous Materials Expense exceeds Twenty-one Million Dollars (\$21,000,000), then Buyer shall notify Seller in writing of the amount of the excess and Buyer shall have the right, within fifteen (15) days after the date Buyer and Seller establish the Final Budget, by written notice to Seller and Escrow Holder, to elect to (A) terminate this Agreement, in which case, Seller shall return the Additional Deposit to Buyer, and neither party shall have any further obligation hereunder, except for those obligations hereunder that expressly survive the termination of this Agreement, or (ii) elect to pay all costs of the Approved Infrastructure Work, the Approved Mitigations, the cost of remediation or mitigation of any Attachment 1B Matter and the costs of investigation and/or remediation of Qualifying Hazardous Materials in excess of Twenty-one Million Dollars (\$21,000,000). If Buyer fails to make such election within said fifteen (15) day period, Buyer shall be deemed to have made the election in clause (ii) above. Notwithstanding the foregoing, Seller shall have thirty (30) days following receipt of Buyer's termination notice to agree to pay the amount of the Final Budget in excess of Twenty-one Million Dollars (\$21,000,000). If Seller so elects, this Agreement shall remain in full force and effect and Seller shall make available to Buyer for the purposes specified in Section 9.1 the amount of the Final Budget in excess of Twenty-one Million Dollars (\$21,000,000).

9.2.6 Parcel B Incremental Costs. Concurrently with the development of the Preliminary Budget, Buyer shall also shall develop a budget for the anticipated incremental costs, in addition to the cost for the Approved Infrastructure Work, that Buyer will incur with regard to the planning, design and construction of the Parcel B Infrastructure ("Parcel B Budget"). For instance, if Buyer will be installing a six inch pipe for certain purposes and an eight inch pipe is required to add service for Parcel B, then Seller would be responsible only for the cost of larger pipe, but not any cost of trenching, installation, etc.). The budget shall be subject to Seller's approval. Seller shall approve or disapprove of the Parcel B Budget within fifteen (15) days from receipt thereof. If Seller disapproves the Parcel B Budget, it shall describe with specificity its reasons for disapproval. If Seller disapproves the Parcel B Budget, the parties shall cooperate to resolve their differences and develop a Parcel B Budget acceptable to both parties. As part of the bid process for the Final Approved Infrastructure Plans, Buyer shall require the contractors to identify as separate line items the incremental costs for the Parcel B Infrastructure, which costs shall be subject to Seller's review and approval as described in Section 9.2.4. At such time as the parties approve the infrastructure bid and select the infrastructure contractor, they shall identify in writing all those third party costs (or portions thereof) that apply to Parcel B (the "Parcel B Infrastructure Costs"). "Parcel B Infrastructure Costs" shall not include any fee to Buyer for its activities as construction manager and supervisor of the Parcel B Infrastructure work, nor shall Seller be required to reimburse Buyer for any internal costs or expenses Buyer may incur with regard to the infrastructure construction. Seller shall reimburse Buyer for Parcel B Infrastructure Costs pursuant to draw requests separate and apart from Buyer's draw requests for Buyer's Reimbursable Costs in accordance with the procedure set forth in Sections 9.3 and 9.4. Seller shall retain the obligation to reimburse Buyer for the Parcel B Infrastructure Costs, notwithstanding Seller's assignment of this Agreement to the RDA, and such reimbursement obligation shall survive said assignment and shall be a Retained Obligation (as defined in Section 16.13). In addition, Seller shall reimburse Buyer for the Parcel B Infrastructure Costs from funds separate and apart from the Seller's Funds and such reimbursement shall not reduce Seller's Funds available to pay the costs specified in Section 9.1. Prior to Buyer's commencement of any Parcel B Infrastructure work, Seller shall provide

evidence to Buyer of the amounts set aside in Seller's budget to reimburse Buyer for the Parcel B Infrastructure Costs.

9.2.7 Construction Schedule. As soon as reasonably possible following the Effective Date and from time to time thereafter upon request from Seller, Buyer shall deliver to Seller the then current construction schedules for the Entitlements, permits, Infrastructure work and construction of housing on the Housing Parcels. Buyer shall deliver to Seller (whether or not Seller has so requested) copies of updates or amendments to the schedules that contain material changes from the prior schedules.

9.3 Buyer Submission of Request for Payment of Buyer's Reimbursable Costs. From time to time following Escrow Closing, but not more often than once every month, on or before the first (1st) day of each month, Buyer may submit to Seller separate written Requests for Reimbursement of Buyer's Reimbursable Costs or Parcel B Infrastructure Costs incurred during the past month. Each Request for Reimbursement shall (i) itemize the amounts for which reimbursement is requested by category (i.e., Approved Infrastructure Work, Attachment 1B Mitigation Costs incurred for Approved Mitigations, Hazardous Materials Compliance Costs incurred in connection with Qualifying Hazardous Materials, etc.) or the Parcel B Infrastructure Costs requested, as applicable, (ii) contain a copy of each invoice or bill for which Buyer seeks reimbursement, (iii) contain Buyer's certification that all work for which reimbursement is being requested has been completed, (iv) contain from each party providing labor or materials for work for which Buyer is entitled to reimbursement hereunder (a) unconditional lien releases for work for which Seller has made any previous reimbursement to Buyer, and (b) conditional lien releases for work for which Buyer is requesting release pursuant to the then current Request for Reimbursement and (v) as a condition to the final disbursement, evidence that the City has accepted the applicable work (i.e., Approved Infrastructure Work, Approved Mitigations or Parcel B Infrastructure Work, as applicable). Seller shall have no obligation to make any disbursement with regard to any work if any stop notice or mechanics lien has been delivered or recorded with regard thereto.

9.4 Conditions to Disbursement of Reimbursements. Seller's obligation to reimburse any amounts under this Article 9 shall be conditioned upon Buyer's delivery of the following with each Request for Reimbursement and/or satisfaction of the following conditions:

9.4.1 Completion of Work. Delivery to Seller of reasonable evidence that all work and/or materials or services for which reimbursement is being requested has been performed; provided with regard to work for which such determination cannot be made until the work is completed, Buyer shall deliver reasonable information regarding the progress of work not then completed;

9.4.2 Statement of Remaining Reimbursement Obligation. Buyer shall include with each Request for Reimbursement its calculation of the amounts that previously have been disbursed to it under this Article 9, the unpaid reimbursement amounts that Buyer estimates it will request in the future for Buyer's Reimbursable Costs and Parcel B Infrastructure Costs and the estimated date Buyer anticipates completion of the work that qualifies for reimbursement as Buyer's Reimbursable Costs or Parcel B Infrastructure Costs, as applicable ("Buyer's Status Report"). The parties acknowledge that Buyer's Status Reports, except as to work for which

Buyer has been paid, will be an estimate furnished to Seller to assist Seller in ascertaining the status of work subject to reimbursement from Seller's Funds and Parcel B Infrastructure work and the amount of the unpaid balance of Buyer's Reimbursable Costs and Parcel B Infrastructure Costs.

9.4.3 Inspections. Any work that has been inspected since the last disbursement shall have passed such inspection.

9.4.4 Documentation. Buyer having delivered to Seller all documents required pursuant to Section 9.3.

9.5 Escrow Disbursement. Within thirty (30) days following receipt of a Request for Reimbursement and satisfaction of the conditions described in Section 9.4, Seller shall pay to Buyer an amount equal to ninety percent (90%) all amounts described in the Buyer's Request for Reimbursement, or one hundred percent (100%) of that amount if Buyer has requested only ninety percent (90%) of the value of the work completed. If Seller disputes that Buyer is entitled to disbursement of any amount described in a Request for Reimbursement, Seller shall pay ninety percent (90%) of all undisputed amounts and shall notify Buyer in writing of the disputed amounts. If the parties are unable to resolve the dispute within thirty (30) days after Buyer has submitted the Request for Reimbursement, then the Project Engineer shall determine whether the amount disputed by Seller is properly included within the Request for Reimbursement. The final disbursement, including the ten percent (10%) retention previously withheld from any prior disbursement, shall be delivered thirty five (35) days after Buyer has properly and timely recorded a notice of completion for the work and has delivered to Seller unconditional lien releases from the general contractor (if any) and from all subcontractors who have sent preliminary lien notices to Seller or Buyer with regard to the work.

9.6 Buyer Reimbursement to Seller. Buyer may request the RDA to assist Buyer with regard to certain of the Housing Parcels development costs. However, Seller will not be required to reimburse Buyer hereunder for costs pursuant to Buyer's right to recover Buyer's Reimbursable Costs or Parcel B Infrastructure Costs if Buyer also receives from the RDA a reimbursement or other economic accommodation for the same work.

9.7 Prevailing Wage. For purposes of this Section 9.7, the term "Project" means all works of improvement for which Buyer is reimbursed from Seller's Funds. Buyer shall be required under this Agreement to pay prevailing wage (as defined in California Labor Code section 1771) for any work of improvement hereunder only for the Project.

ARTICLE 10 CONDITION OF HOUSING PARCELS

10.1 Buyer Review; As/Is. Buyer represents and warrants that Buyer has reviewed the Housing Parcels, the RDA Agreement and other matters of concern to Buyer and that Buyer has satisfied itself as to the physical, environmental, legal and economic condition and all other aspects of the Housing Parcels and their suitability for the purposes intended by Buyer. Buyer acknowledges and agrees that Buyer is acquiring the Housing Parcels subject to all existing law,

ordinances, rules and regulations, and that, except as expressly set forth in this Agreement, neither Seller nor any of Seller's employees, agents, representatives, or attorneys (collectively "Seller's Agents") have made any warranties, representations or statements regarding the availability of any approvals, or the laws, ordinances, rules or regulations of any governmental or quasi-governmental body, entity, district or agency having authority with respect to the development, occupancy, conditions and/or use of the Housing Parcels. Except for Seller's representations and warranties expressly set forth in this Agreement, Seller disclaims the making of any representations or warranties, express or implied, regarding the Housing Parcels or matters affecting the Housing Parcels, including the physical condition of the Housing Parcels, title to or boundaries of the Housing Parcels, soil condition, the presence of Hazardous Materials or other environmental matters, compliance with building, health, safety, land use and zoning laws, regulations and orders, and traffic patterns. Buyer further acknowledges that except as may be expressly set out in this Agreement, Seller has made no representation or warranty regarding the accuracy or completeness of any reports or studies relating to the Housing Parcels that have been delivered to or made available to Buyer other than that the same are true and correct copies of the reports and studies available to Seller. Buyer moreover acknowledges that (i) Buyer is a sophisticated real estate developer, knowledgeable and experienced in the financial and business risks attendant upon acquiring real property for development and capable of evaluating the merits and risks of entering into this Agreement and purchasing the Housing Parcels, (ii) that Buyer has entered into this Agreement in reliance on its own (or its expert's) investigation of the physical, environmental, economic and legal condition of the Housing Parcels and (iii) that except for Seller's representations and warranties expressly set out in this Agreement, Buyer is not relying on any representations and warranties made by Seller or Seller's Agents concerning the Housing Parcels. Subject to Seller's express obligations and representations and warranties set forth in this Agreement, Buyer shall purchase the property in its "As Is" condition at Escrow Closing assuming the risk that adverse physical, environmental, economic or legal conditions may not have been revealed by its investigations. Seller shall have no liability for any subsequently discovered defects, whether latent or patent, except as expressly provided in this Agreement for Qualified Hazardous Materials and Approved Mitigations. Buyer further acknowledges that Seller shall not be obligated to demolish, repair or improve any improvements on the Housing Parcels.

10.2 Demolition. Certain improvements exist on the Seller's Entire Property, some of which also are located on Parcel B. If Seller requests, Seller shall grant Buyer a permit to enter Parcel B to demolish and remove the related and contiguous improvements located on Parcel B at the same time Buyer demolishes and removes the improvements on Parcel D. The cost of the Parcel B demolition, and any third party costs incurred by Buyer in connection with the permit to enter, shall be a Parcel B Infrastructure Cost.

10.3 Environmental Responsibilities. Until improvements are substantially completed on the Housing Parcels, if Buyer discovers any Qualified Hazardous Material (as defined below) prior to the Closing Date or any Qualifying Hazardous Material that was in existence as of the Closing Date for the respective parcel in, on or under a portion of the Housing Parcels (except for Hazardous Materials released onto the Housing Parcels by Buyer or Buyer's Parties), and if a Regulatory Agency (as defined below) requires remedial action with regard to such Qualified Hazardous Material, then, subject to this Section 10.3, Buyer shall, as an accommodation to Seller, promptly take action to develop a work plan acceptable to the Regulatory Agency and to

implement remedial action in accordance with the approved work plan. By undertaking the development of a work plan to implement remedial action for such Qualifying Hazardous Materials, Buyer shall not be deemed to have assumed any liability to Seller or the Regulatory Agency for the investigation and/or remediation of such Qualified Hazardous Materials, or prior to the Escrow Closing, to be deemed to have become a potentially responsible party. At such time as Buyer discovers the existence of any Hazardous Materials of any nature whatsoever on the Housing Parcels, Buyer promptly shall notify Seller in writing and the parties shall follow the procedures set out below.

10.3.1 Definitions

10.3.1.1 Action Level. Any contamination or deterioration of water or soil caused by the presence of Hazardous Materials therein resulting in a level of contamination in the soil or groundwater greater than the maximum levels established from time to time by any Regulatory Agency (as defined below) for such substances in the soil and/or groundwater of land to be used for residential purposes.

10.3.1.2 Intentionally Omitted.

10.3.1.3 Qualifying Hazardous Materials. Hazardous Materials located in the soil and/or groundwater or any improvements on the Housing Parcels at or above Action Level. Qualifying Hazardous Materials does not include Hazardous Material that (i) was caused by Buyer's Parties, or any party in or on about the Housing Parcels with Buyer's consent or (ii) that first occurs after the Closing Date unless caused directly and solely by Seller or Seller's Agents.

10.3.1.4 Regulatory Agency. Any governmental agency or agencies having jurisdiction over the Qualifying Hazardous Materials or the remediation thereof on a Housing Parcel.

10.3.1.5 Seller's Maximum Qualifying Hazardous Materials Expenses. One Million Dollars (\$1,000,000).

10.3.2 Notice to Seller. Buyer shall promptly notify Seller in writing within five (5) days from Buyer's discovery of any Hazardous Material in the soil and/or groundwater or improvements on the Housing Parcels (whether or not Buyer has ascertained that the amounts are, or are not, at or above Action Levels). Buyer's notice shall state whether Buyer suspects that the Hazardous Material is a Qualifying Hazardous Material and contain any report or other information Buyer then has available with regard to the Hazardous Material.

10.3.3 Seller Right to Investigate. Once Seller receives notice from Buyer that Hazardous Materials exist on the Housing Parcels, if Escrow Closing has occurred, Seller (and its consultants and agents) may enter the Housing Parcels within fifteen (15) days after receipt of Buyer's notice for the purpose of observing the condition of the Housing Parcels and of taking environmental samples. Buyer will arrange for Seller's access to the affected area of the Housing Parcels and to such other areas as Seller's advisors reasonably deem appropriate.

10.3.4Regulatory Agency Notification. Except in the case of an emergency or if immediate notice to such Regulatory Agency is required by law, Buyer will notify Seller before contacting any Regulatory Agency regarding any actual or suspected Hazardous Materials, to provide Seller an opportunity to review and analyze the situation. Buyer will act as the lead party in discussions and negotiations with Regulatory Agencies with respect to such Hazardous Materials and shall take the actions described below to quantify the Hazardous Materials, negotiate with the Regulatory Agencies and perform required remedial action.

10.3.5Work Plan. After discussions with Seller (unless the parties determine that Seller has no obligation hereunder), if a Regulatory Agency requires testing, investigation, monitoring wells, or remedial action with respect to Hazardous Materials on the Housing Parcels, Buyer, as the lead party, will employ such consultants as shall be reasonably necessary to prepare a work plan for such investigation and remediation and seek approval of such plan(s) from the Regulatory Agency. Buyer shall first submit to Seller for Seller's approval, which shall not be unreasonably withheld, any investigation and/or remediation plan prior to the submittal of such plan to the Regulatory Agency. Seller shall approve or disapprove of the investigation and/or remediation plan within ten (10) days after receipt thereof. If Seller disapproves of such investigation and/or remediation plan, Buyer shall describe with specificity the reasons for its disapproval. If Seller disapproves the investigation and/or remediation plan, the parties shall cooperate to resolve their differences to develop a plan acceptable to Buyer. Once the investigation and/or regulatory plan is submitted to the Regulatory Agency for approval, Buyer shall keep Seller reasonably informed regarding discussions with the Regulatory Agency and shall cause Buyer's consultants to provide to Seller (contemporaneously with delivery to Buyer and without prior consultation with the Buyer) copies of all reports and information generated by the consultant. At the request of Seller, its consultant, agent or employee may be present at all times that Buyer, or its consultants or engineers are on the Housing Parcels to observe any investigation or remedial work.

10.3.6Approved Work Plan. At such time as the Regulatory Agencies approve a work plan, Buyer shall obtain bids from qualified environmental consultants, engineers or contractors reasonably approved by Seller to complete such work (including the operation of any required monitoring wells, or other on-going activities) as is required to comply with the work plan ("Work Plan Cost"). The parties shall work together to approve an acceptable bid for the required remedial work. Once the parties have approved the Work Plan Cost, Buyer shall engage the environmental consultant, engineer or other contractor(s) whose bid was approved by Seller to perform the work required by the approved work plan. The Work Plan Cost shall be included in Buyer's Hazardous Materials Compliance Costs. Seller shall reimburse Buyer from Seller's Funds for all Hazardous Materials Compliance Costs incurred by Buyer with regard to such Qualifying Hazardous Materials, up to Seller's Maximum Qualifying Hazardous Materials Expense as part of Buyer's Reimbursable Expenses pursuant to Sections 9.3 and 9.4. Buyer's Hazardous Materials Compliance Costs shall not include increased costs of construction of housing units on the Housing Parcels due to delay caused by the presence of Qualifying Hazardous Materials on the Housing Parcels.

10.3.7Extension of Close of Escrow. Notwithstanding anything contained in this Agreement, if Escrow Closing has not already occurred at the time any Hazardous Materials are discovered on the Housing Parcels, then Escrow Closing shall be extended until ten (10) days

after the earlier of (i) the determination that such Hazardous Materials are not Qualifying Hazardous Materials or (ii) when the remediation plan approved by the Regulatory Agency for the remediation of the Qualifying Hazardous Materials has been implemented and the Regulatory Agency has issued a "no further action" letter with respect to such Qualifying Hazardous Materials, but not to exceed two (2) years from the originally scheduled Closing Date.

10.3.8 Termination of Seller Obligations. Seller's obligations to pay Buyer's Hazardous Materials Compliance Costs under this Section 10.3 shall expire and have no further force or effect upon the first to occur of (i) the date upon which Seller has expended Seller's Maximum Qualifying Hazardous Materials Expense or (ii) as to each legal parcel at any time included within the Housing Parcels, on the date the initial improvements planned for that parcel have been completed (as evidenced by a recorded notice of completion or certificate of occupancy or if neither is obtained, ninety (90) days after cessation of work on the parcel improvements (which may, or may not, include any structures)). Subject to Sections 9.2.2 and 9.2.5, Buyer shall be obligated to pay any sums, in excess of Seller's Maximum Qualifying Hazardous Materials Expense, that may be required to complete any remedial action.

10.4 Release of Seller. Buyer agrees that, from and after the Closing Date, Buyer, for itself and its agents, affiliates, successors, and assigns, shall release and forever discharge Seller, its agents, affiliates, successors and assignees from, and waives any right to proceed against Seller for, any and all rights, claims and other aspects and demands at law or in equity relating to the presence of Hazardous Materials on the Housing Parcels, except for Seller's representation in Section 8.5 hereof and Seller's obligations arising under Sections 10.2 and 10.3 through 10.3.8 above. Buyer has read and has been fully advised of the contents of Section 1542 of the Civil Code of the State of California, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Buyer hereby acknowledges that it may have sustained damages, losses, costs and/or expenses that are presently unknown and unsuspected, and that such damages, losses, costs and expenses as may have been sustained may give rise to additional damages, loss, cost or expense in the future; nevertheless, Buyer acknowledges that the foregoing release has been negotiated and agreed upon and expressly waives any and all rights which it may have under section 1542 of the California Civil Code, or any other state or federal statute or common law principle of similar effect, with respect to the Claims released herein. Notwithstanding the foregoing, the waiver and release set forth above are not intended to, and shall not release or discharge liability for any claims arising from Seller's intentional misrepresentation.

Buyer's signature

10.5 Attachment 1B Mitigation Work. Provided that the applicable governmental agency has determined the amount of such payment, Seller shall promptly pay any Approved Mitigations within the time period required by the Entitlements, or in any event, within the time

necessary so that the period for Buyer to obtain the Entitlements will not be extended as a result of Seller's failure to make timely payment. Seller shall not delay Buyer's construction of the Approved Infrastructure Work or the construction of housing units on the Housing Parcels by failure to make timely payments of any Approved Mitigations. In particular, Seller shall be responsible for negotiating, and the cost of implementing, any plan to exclude and/or relocate burrowing owls or other protected species from the Housing Parcels, the cost of which shall be an Attachment 1B Mitigation Cost payable out of the Seller's Funds Escrow Account. To the extent Buyer provides assistance to Seller in negotiating and implementing such plan by making Buyer's consultants or information generated by its consultants available for Seller's use, Seller shall reimburse Buyer at Escrow Closing for the reasonable third party expenses incurred by Buyer in providing such assistance. If, prior to Escrow Closing, any Mitigation Regulatory Agency (as defined below) requires mitigation in place on the Housing Parcels for the Approved Mitigations described in Sections B.1 and B.3 of Attachment No. 1 such that Buyer is unable to construct six hundred thirteen (613) for sale units on the Housing Parcels, then for purposes of this Agreement, all land on the Housing Parcels required for such mitigation in place shall be deemed park land, and Buyer shall be entitled to a reduction in the Purchase Price in accordance with the formula set forth in Section 2.3. Except for the foregoing Approved Mitigations to be paid or performed by Seller, Buyer shall perform any work required by the Approved Mitigations and Seller shall reimburse Buyer for Attachment 1B Mitigation Costs incurred by Buyer in connection therewith as part of Buyer's Reimbursable Costs in accordance with Section 9.1 above. Until improvements are substantially completed on any portion of the Housing Parcels, if Buyer discovers any items that are identified in Section B.1, B.2 and B.3 of Attachment 1 ("Attachment 1B Matters"), and any governmental agency having jurisdiction over such Attachment 1B Matter ("Mitigation Regulatory Agency") requires remedial action with regard to such Attachment 1B Matter, Buyer shall, as an accommodation to Seller, promptly take action to develop a work plan acceptable to the Mitigation Regulatory Agency and to implement remedial action in accordance with the approved work plan, subject to reimbursement of Attachment 1B Mitigation Costs in accordance with this Section 10.5. By undertaking the development of a work plan to implement remedial action for such Attachment 1B Matter, Buyer shall not be deemed to have become a potentially responsible party or assumed any liability to Seller or the Mitigation Regulatory Agency for the remediation of such Attachment 1B Matter. At such time as Buyer discovers the existence of any Attachment 1B Matter of any nature whatsoever on the Housing Parcels, Buyer promptly shall notify Seller in writing and the parties shall follow the procedures set out below.

10.5.1 Notice to Seller. Buyer shall promptly notify Seller in writing within five (5) days from Buyer's discovery of any Attachment 1B Matter on the Housing Parcels.

10.5.2 Seller Right to Investigate. Once Seller receives notice from Buyer that an Attachment 1B Matter exists on the Housing Parcels, if Escrow Closing has occurred, Seller (and its consultants and agents) may enter the Housing Parcels within five (5) days after receipt of Buyer's notice for the purpose of observing the Attachment 1B Matter. Buyer will arrange for Seller's access to the affected area of the Housing Parcels and to such other areas as Seller's advisors reasonably deem appropriate.

10.5.3 Mitigation Regulatory Agency Notification. Except in the case of an emergency or if immediate notice to such Mitigation Regulatory Agency is required by law,

Buyer will notify Seller before contacting any Mitigation Regulatory Agency regarding any Attachment 1B Matter, to provide Seller an opportunity to review and analyze the situation. Buyer shall act as lead party in discussions and negotiations with Mitigation Regulatory Agencies.

10.5.4 Mitigation Work Plan. Except for the remediation of burrowing owls or other endangered species which shall be the obligation of Seller, if a Regulatory Agency requires remedial action with respect to the Attachment 1B Matter, Buyer shall employ such consultants as shall be reasonably necessary to prepare a work plan for such remediation and seek approval of such plan from the Mitigation Regulatory Agency. Buyer shall first submit to Seller for Seller's approval, which shall not be unreasonably withheld or delayed, any remediation plan prior to submittal of such plan to the Mitigation Regulatory Agency. Seller shall approve or disapprove in writing any such remediation plan within five (5) days after receipt thereof. If Seller disapproves of the remediation plan, Seller shall describe with specificity the reasons for its disapproval. If Seller disapproves the remediation plan, the parties shall cooperate to resolve their differences and shall develop a remediation plan that is acceptable to Buyer prior to submission thereof to the Mitigation Regulatory Agency. Once, the remediation plan is submitted to the Mitigation Regulatory Agency for approval, Buyer shall keep Seller reasonably informed regarding discussions with the Mitigation Regulatory Agency and shall cause Buyer's consultants to provide to Seller (contemporaneously with delivery to Buyer and without prior consultation with Buyer) copies of all reports and information generated by the consultant. At the request of Seller, its consultant, agent or employee may be present at all times that Buyer or its consultants or engineers are on the Housing Parcels to observe any remediation work. The costs incurred by Buyer in preparing and revising the remediation plan, as well as the costs incurred in obtaining Mitigation Regulatory Agency approval of such plans shall be Attachment 1B Mitigation Costs and reimbursed by Seller to Buyer as Buyer's Reimbursable Costs in accordance with Section 9.1.

10.5.5 Approved Work Plan. At such time as the Mitigation Regulatory Agency approves the remediation plan, Buyer shall obtain bids from qualified consultants, engineers or contractors to perform the work required by the remediation plan. Buyer shall inform Seller of the amounts of the bids for Seller's review and Seller and Buyer shall discuss the bids. Seller may disqualify any bidder by giving written notice of such disqualification and the reasons therefor within five (5) business days of receipt of the bids. Buyer may accept any of the bids, unless the bidder has been disqualified by Seller. Buyer shall engage the consultant, engineer or other contractor(s) whose bid was selected by Buyer to perform the work required by the approved remediation plan. All costs of work required by the approved remediation plan or any other work required by a Mitigation Regulatory Agency with respect to the Attachment 1B Matter shall be Attachment 1B Mitigation Costs and reimbursed to Buyer as part of Buyer's Reimbursable Costs in accordance with Section 9.1.

10.5.6 Extension of Close of Escrow. Notwithstanding anything contained in this Agreement, Buyer may extend the Closing Date if the City declines to issue permits or approvals for the Housing Parcels because an Approved Mitigation required as a condition to the issuance of such permits or approvals has not been paid or performed or if any Attachment 1B Matter is discovered on the Housing Parcels, and Buyer would be prevented or delayed in the development of housing units on the Housing Parcels due to the existence of such Attachment 1B Matter. In

such event, the Escrow Closing shall be extended until the date that is ten (10) days after the Approved Mitigation has been paid or performed or the remediation plan approved by the Mitigation Regulatory Agency for the remediation of the Attachment 1B Matter has been implemented and the Mitigation Regulatory Agency has accepted such work as complete, but not to exceed two (2) years from the originally scheduled Closing Date.

ARTICLE 11 AFFORDABLE HOUSING RESTRICTIONS

11.1 Affordable Housing Requirements for Parcel C. Seller has entered into this Agreement to facilitate the development of affordable housing and to increase the supply of affordable housing in Santa Clara County. In keeping with this goal, Buyer has agreed that at least twenty percent (20%) of the aggregate number of housing units that are developed on the Housing Parcels will be made affordable to residents as described below. All affordable units may be located within the boundaries of Parcel C (or at Buyer's election some may be included on Parcel D).

11.2 Affordable Housing Requirements for Parcel C. Buyer has agreed to develop a portion of Parcel C (the "Rental Area") with no fewer than 104 high density multi-family rental housing units affordable to low and very low income (as defined in California Health & Safety Code) tenants (the "Rental Affordable Units"). In order to insure that the Rental Affordable Units will be developed and maintained on the Rental Area, at Parcel C Closing Buyer and Seller will record a "regulatory agreement" in the form to be agreed between Seller and Buyer in accordance with Section 11.3 hereof and to be attached hereto as Exhibit E (the "Rental Regulatory Agreement") pursuant to which Buyer will covenant to construct and maintain on the Rental Area at least 104 Rental Affordable Units for a term of at least sixty years. The Regulatory Agreement shall provide for subordination of the Regulatory Agreement to the deed of trust of Buyer's construction lender and any lender to which another agency (such as the RDA) making a loan on Rental Area agrees to subordinate.

11.3 Parcel C Affordable For-Sale Housing Use. Buyer has agreed to develop on a portion of Parcel C (the "For-Sale Area") for-sale housing units (the "For-Sale Affordable Units") that will be affordable to "moderate" income families (defined as one hundred twenty (120%) of the Santa Clara County median income as reported by the United States Department of Housing and Urban Redevelopment for 2003). Buyer shall cause the For-Sale Affordable Units to be constructed at the same time as the market rate for-sale units on Parcel C and with the same exterior finishes and with the same floor plans as market rate for-sale units. Upon completion, Buyer will make the For-Sale Affordable Units available to moderate income families at "affordable" purchase prices. The For-Sale Affordable Units will be disbursed throughout the for-sale housing units located on Parcel C. In order to insure that For-Sale Affordable Units will be developed and maintained on the For-Sale Area, at Parcel C Closing Buyer and Seller will record a "regulatory agreement" in the form to be agreed between Seller and Buyer in accordance with this Section 11.3 and to be attached hereto as Exhibit F (the "For-Sale Regulatory Agreement") pursuant to which Buyer will covenant to construct on the For-Sale Area the number of for sale units that, when added to the number of Rental Affordable Units, will equal in number at least twenty percent (20%) of the total number of dwelling units approved or planned for (or of the maximum density permitted by the City, if plans are not then

submitted by Buyer, for) the Housing Parcels. The For-Sale Regulatory Agreement will require that the successive owners of each For Sale Affordable Unit maintain the unit as "affordable" (by, among other provisions, restricting the sale price for which the owner of a For Sale Affordable Unit may sell the unit to an "affordable" price, as described in the Regulatory Agreement). The For-Sale Regulatory Agreement shall contain such rights to purchase and other mechanisms as Seller shall determine are necessary to insure that the For-Sale Affordable Units all remain affordable. If any of the affordable "for sale" units are located on Parcel D, then the same restrictions shall apply to those affordable units.

Promptly after the Effective Date, Seller shall provide Buyer with the forms of the Rental Regulatory Agreement and the For-Sale Regulatory Agreement (collectively, "Regulatory Agreements"). Buyer shall either approve or disapprove of the Regulatory Agreements within ten (10) days after receipt thereof. If Buyer disapproves of the Regulatory Agreements, Buyer shall describe with specificity its reasons for disapproval. Thereafter, the parties shall cooperate to resolve their differences and reach agreement on forms of the Regulatory Agreements acceptable to Buyer. Notwithstanding the foregoing, if Buyer and Seller have not reached agreement on the form of Regulatory Agreements within forty-five (45) days after the date Buyer receives the initial drafts of the Regulatory Agreements, then Buyer may elect to terminate this Agreement by giving written notice to Seller. In the event of termination, Seller shall immediately return the Deposit to Buyer, and neither party shall have any further obligation hereunder except for those obligations which expressly survive the termination of this Agreement.

ARTICLE 12 BUYER'S INFRASTRUCTURE INSTALLATION

12.1 Time Table for Installation of Infrastructure. Subject to receipt of all City approvals and all necessary permits, Buyer shall commence the Approved Infrastructure Work and the Parcel B Infrastructure Work within thirty (30) days following Parcel D Escrow Closing and shall diligently pursue construction to completion.

12.2 Completion of Infrastructure. At such time as Buyer causes the completion of the Approved Infrastructure Work and Parcel B Infrastructure Work, Buyer shall cause a notice of completion to be recorded and shall take such other steps with regard to the infrastructure as is required to satisfy all City requirements with regard thereto.

ARTICLE 13 ESCROW CLOSING

13.1 Opening of Escrow. Not later than five (5) business days after the Effective Date, Seller shall open an escrow (the "Escrow") with Escrow Holder, by depositing with Escrow Holder the fully executed Agreement, or executed counterparts thereof.

13.2 Conditions Precedent to Close of Escrow.

13.2.1 Buyer's Conditions Precedent. The Escrow Closing and Buyer's obligation to purchase the Housing Parcels, are subject to the satisfaction of the following

conditions or Buyer's written waiver of such conditions on or before the Closing Date. Buyer may waive in writing any or all of such conditions in its sole and absolute discretion.

(a) Seller shall have performed all obligations to be performed by Seller pursuant to this Agreement; provided, however, this condition shall not be deemed to have failed unless Seller fails to perform an obligation within ten (10) days after receipt of written notice from Buyer specifying the Seller obligation(s) not performed. If necessary, the Escrow Closing shall be extended for the ten (10) day period specified above to allow Seller to perform such obligation. In addition, if Buyer is aware that Seller has failed to perform an obligation hereunder prior to the Close of Escrow, Buyer may give Seller written notice of such failure at least thirty (30) days prior to the Close of Escrow, in which case no additional notice and cure period shall be necessary if Seller has not performed such obligation prior to the Close of Escrow;

(b) No event or circumstance shall have occurred which would make any of Seller's representations, warranties and covenants set forth herein materially untrue as of the Close of Escrow;

(c) There shall have occurred no material adverse change in the physical condition of the Housing Parcels (such as those caused by natural disasters) which would render the Housing Parcels unsuitable for Buyer's intended use for development;

(d) A subdivision map, parcel map or lot line adjustment dividing the Housing Parcels into separate legal parcels shall have been approved pursuant to Section 6.5, or, only if a subdivision map, parcel map or lot line adjustment has not been approved on or before the last day for the Closing Date, if the conditions set forth in Section 6.5 for the conveyance of the Housing Parcels pursuant to a metes and bounds legal description have been satisfied; and

(e) The Title Company shall be committed to issue to Buyer, as of the Closing Date, the Title Policy covering the Housing Parcels, subject only to the Permitted Exceptions.

If Escrow Closing does not occur because any of the conditions in this Section 13.2.1 are not satisfied or waived in writing by Buyer on the Closing Date, then Buyer may terminate this Agreement by giving written notice of such termination to Seller and Escrow Holder, in which case Seller shall immediately pay to Buyer the amount of the Deposit previously released to Seller, and neither party shall have any further obligation hereunder, except for obligations or indemnities that survive the termination of this Agreement. In addition, failure of the conditions in Sections 13.2.1(a) and (b) shall be a default by Seller under this Agreement. Notwithstanding the above, if the failure of the condition in Section 13.2.1(b) above is due to Seller's representation and warranty in Section 8.5 becoming materially untrue after the Effective Date, and Seller, its employees, tenants, occupants, representatives, agents or contractors did not cause such representation or warranty to become untrue by their acts or omissions or have information that would have made such representation or warranty materially untrue on the Effective Date, then such failure shall not be a default by Seller hereunder and Buyer shall be entitled to return of only one-half of the Deposit.

13.2.2 Seller's Condition Precedent. The Escrow Closing and Seller's obligation to sell the Housing Parcels to Buyer is subject to the condition that Buyer acquire both Parcel C and Parcel D simultaneously, unless Buyer exercises its right to extend the Closing Date for Parcel C in accordance with Section 13.3.2 hereof. Therefore, Seller shall be obligated to convey Parcel D to Buyer only if Buyer concurrently acquires Parcel C or Buyer exercises its right to extend the Parcel C Closing Date as set forth in Section 13.3.2 below.

13.3 Closing Date. Escrow Closing shall occur on the earlier of (i) forty five (45) days after the date the City has granted its last discretionary approval for the Entitlements, and all appeal periods for such approval have expired, for Buyer to construct for sale housing and rental housing on the Housing Parcels pursuant to Buyer's Application to the City or (ii) the five hundredth forty seventh (547th) day following the Effective Date, or on such earlier date as the parties shall mutually select. Notwithstanding the foregoing:

13.3.1 Closing Date Extension. The Closing Date may be extended as provided in Sections 10.3.7 and 10.5.6.

13.3.2 Additional Parcel C Closing Date Extension. Buyer may extend the Closing Date for Parcel C (but not for Parcel D) for one period of one hundred eighty (180) days by performing all of the following acts described in this Section 13.3.2. The parties acknowledge that Seller has contracted with Buyer for a timely closing of this transaction and that time is of the essence to Seller. Therefore, if Buyer fails promptly to comply with each and every one of the requirements for Buyer to properly exercise Buyer's extension option, the Buyer's right to extend the Closing Date for Parcel C shall automatically terminate and be of no further force or effect without notice of any kind whatsoever.

(a) Buyer shall have delivered to Seller written notice ("Buyer's Extension Notice") that Buyer is exercising its right to extend the Parcel C Closing Date not later than the forty fifth (45th) day before the scheduled Parcel C Closing Date;

(b) Buyer must timely close escrow on Parcel D, subject to any extension of such Closing Date provided in this Agreement; and

(c) Buyer must deliver directly to Seller, not later than the date Seller receives Buyer's Extension Notice, an extension fee ("Extension Fee") equal to two and one-half percent (2.5%) of the amount equal to the Parcel C Purchase Price, less the portion of the Deposit applicable to the Purchase Price for Parcel C. The Extension Fee shall be consideration for Buyer's right to extend the Parcel C Escrow Closing, will not be applied to the Purchase Price and will be non-refundable when delivered to Seller.

13.4 Closing Documents. The parties shall deposit the following with Escrow Holder prior to the Close of Escrow:

13.4.1 Deposit by Buyer. Buyer shall deposit:

(a) the Purchase Price, less the Deposit and in the Parcel C Closing, less any reduction in the Purchase Price for Parcel C calculated pursuant to Section 2.3;

- (b) Buyer's Escrow and other cash charges required in Section 13.7;
- (c) A duly signed duplicate original of the Rental Regulatory Agreement for recording at Escrow Closing
- (d) A duly signed duplicate original of the For-Sale Regulatory Agreement for recording at Escrow Closing; and
- (e) Such other documents and funds, including without limitation, escrow instructions, as are required of Buyer to close the purchase in accordance with this Agreement.

13.4.2 Deposit by Seller. Seller shall deposit:

- (a) A Grant Deed in the form of Exhibit G attached hereto, conveying fee title to the Housing Parcels, subject only to the Permitted Exceptions, executed by Seller, with Seller's signature acknowledged, if necessary;
- (b) A duly signed original of the Rental Regulatory Agreement for recording at Escrow Closing;
- (c) A duly signed original of the For-Sale Regulatory Agreement for recording at Escrow Closing;
- (d) if required, an affidavit or qualifying statement, which satisfies the requirements of Section 1445 of the Internal Revenue Code of 1986 as amended, and the regulations thereunder in the form of Exhibit H, and a Form 593(C) or 593(W) (to be provided by Escrow Holder) to satisfy the requirements of California Revenue and Taxation Code Sections 18662(e) and 18668 (collectively, the "Non-Foreign Affidavits") (provided, however, if Seller does not deliver a Form 593(C) or 593(W) to Escrow Holder prior to the Close of Escrow, Escrow Holder is hereby authorized and instructed to withhold from Seller three and one-third percent (3-1/3%) of the Purchase Price (the "Withholding Amount") and transfer the Withholding Amount to the California Franchise Tax Board in compliance with the Revenue and Taxation Code Section 18622(e));
- (e) an assignment and bill of sale of all of Seller's right, title and interest in and to any and all Entitlements and plans pertaining to the Housing Parcels and any personal property comprising any part of the Housing Parcels, in the form attached hereto as Exhibit I (the "Assignment"); and
- (f) Such other documents and funds, including, without limitation, escrow instructions, as are required of Seller to close the sale in accordance with this Agreement.

13.5 Closing Procedure. At Escrow Closing, Escrow Holder shall (a) record the Grant Deed, Rental Regulatory Agreement and For-Sale Regulatory Agreement in the Office of the County Recorder of the County (and obtain conformed copies thereof for delivery to Buyer), (b) pay any transfer taxes, (c) instruct the County Recorder to return the Grant Deed to Buyer, (d) deliver to Seller the Purchase Price Balance, less the Deposit and Seller's charges, conformed copies of the Grant Deed, Rental Regulatory Agreement and For-Sale Regulatory Agreement and

the Assignment and (e) deliver to Buyer the conformed copies of the Grant Deed, Rental Regulatory Agreement and For-Sale Regulatory Agreement, the Non-Foreign Affidavits, the Assignment and the Title Policy covering the Housing Parcels, subject only to the Permitted Exceptions.

13.6 Prorations. Any current assessment payment shall be prorated as of Escrow Closing.

13.7 Closing Charges. Seller shall pay the cost of an owner's CLTA policy of title insurance in the amount of the Purchase Price. Buyer shall pay for any endorsements it may require and for any lender's policy of title insurance. Buyer shall pay documentary transfer taxes. Escrow fees, recording costs, and delivery charges shall be borne fifty percent by Seller and fifty percent by Buyer. All other closing costs shall be borne by the parties in accordance with the custom in Santa Clara County.

13.8 Possession. At Escrow Closing, Seller shall deliver to Buyer possession of the Housing Parcels, free from any tenancy or occupancy rights of third parties; provided if the Parcel C Closing Date is extended, Seller shall deliver to Buyer possession of Parcel C on the Parcel C Closing Date free from any tenancy or occupancy rights of third parties (except Buyer pursuant to the Construction License).

ARTICLE 14

BROKERAGE COMMISSION

Upon Escrow Closing, and only in such event, Buyer agrees to pay to Borelli Investment Company ("Buyer's Broker"), a real estate brokerage commission in an amount set out in a separate agreement between Buyer and Borelli Investment Company. Buyer agrees to indemnify and hold Seller harmless from any liability for or obligation to pay any commission to Broker. Broker has acted solely as agent for Buyer and does not represent Seller. Except for the commission Buyer is paying to Buyer's Broker, Buyer and Seller each represent to the other that such party has not incurred, directly or indirectly, any liability on behalf of the other party for the payment of any real estate brokerage commissions or finder's fees or other compensation to any agents, brokers, finders or salespersons in connection with the purchase and sale of the Housing Parcels as contemplated herein (a "Commission"). Each party hereto shall indemnify and hold harmless the other party from any claim, liability or expense for any Commission claimed by reason of the acts of the other party. Buyer's Broker shall not be a third party beneficiary to this Agreement.

ARTICLE 15

15.1 Buyer's Default; Liquidated Damages. SELLER AND BUYER AGREE THAT IF BUYER BREACHES ITS OBLIGATIONS TO PURCHASE EITHER OF THE HOUSING PARCELS PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DAMAGES FROM SUCH BREACH WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE. IN ORDER TO INDUCE SELLER TO ENTER INTO THIS AGREEMENT BUYER HAS AGREED TO PAY THE LIQUIDATED DAMAGES SET OUT BELOW IN THE EVENT BUYER BREACHES ITS OBLIGATIONS TO PURCHASE

EITHER OF THE HOUSING PARCELS PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

(1) IF BUYER BREACHES ITS OBLIGATIONS HEREUNDER ON OR BEFORE THE ONE HUNDRED EIGHTIETH (180TH) DAY AFTER THE EFFECTIVE DATE AND SUCH BREACH IS NOT CURED WITHIN TEN (10) DAYS AFTER THE DATE OF BUYER'S RECEIPT OF SELLER'S WRITTEN NOTICE OF SUCH BREACH, AND PROVIDED THAT SELLER IS NOT THEN IN BREACH OF THE AGREEMENT, THEN SELLER MAY TERMINATE THIS AGREEMENT IN WHICH CASE SELLER SHALL BE ENTITLED TO ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) AS LIQUIDATED DAMAGES.

(2) IF BUYER BREACHES ITS OBLIGATION HEREUNDER AFTER THE ONE HUNDRED EIGHTIETH (180TH) DAY AFTER THE EFFECTIVE DATE, AND SUCH BREACH IS NOT CURED WITHIN TEN (10) DAYS AFTER THE DATE OF BUYER'S RECEIPT OF SELLER'S WRITTEN NOTICE OF SUCH BREACH, AND PROVIDED THAT SELLER IS NOT THEN IN BREACH OF THE AGREEMENT, SELLER MAY TERMINATE THIS AGREEMENT, IN WHICH CASE SELLER SHALL BE ENTITLED TO TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) AS LIQUIDATED DAMAGES.

(3) IF THE PARCEL D CLOSING OCCURS AND BUYER EXTENDS THE PARCEL C CLOSING DATE AND THEREAFTER, IF BUYER BREACHES ITS OBLIGATIONS HEREUNDER, AND SUCH BREACH IS NOT CURED WITHIN TEN (10) DAYS AFTER THE DATE OF BUYER'S RECEIPT OF SELLER'S WRITTEN NOTICE OF SUCH BREACH, AND PROVIDED THAT SELLER IS NOT THEN IN BREACH OF THIS AGREEMENT, SELLER MAY TERMINATE THIS AGREEMENT, IN WHICH CASE SELLER SHALL BE ENTITLED TO ONE MILLION DOLLARS (\$1,000,000) AS LIQUIDATED DAMAGES.

THE LIQUIDATED DAMAGES SET OUT IN THIS AGREEMENT HAVE BEEN NEGOTIATED BETWEEN THE PARTIES AS REASONABLE COMPENSATION FOR SELLER IN THE EVENT OF BUYER'S BREACH AFTER NOTICE AND THE EXPIRATION OF THE APPLICABLE CURE PERIODS DURING THE PERIODS DESCRIBED ABOVE AND ARE NOT A FORFEITURE OR PENALTY. THE LIQUIDATED DAMAGES ARE SELLER'S SOLE REMEDY IN THE EVENT OF BUYER'S DEFAULT; PROVIDED LIQUIDATED DAMAGES SHALL NOT APPLY TO, AND SHALL BE IN ADDITION TO, ANY DAMAGE SELLER INCURS AS A RESULT OF BUYER'S FAILURE TO PERFORM ITS INDEMNITY OBLIGATIONS HEREUNDER. SELLER HEREBY WAIVES ALL RIGHT TO SPECIFIC PERFORMANCE. IF SELLER MUST BRING ACTION WITH REGARD TO RECOVERY OF LIQUIDATED DAMAGES, BUYER SHALL PAY SELLER'S ATTORNEYS FEES, IN ADDITION TO THE LIQUIDATED DAMAGES DESCRIBED ABOVE.

THE PARTIES AGREE, BY INITIALING BELOW, THAT THE LIQUIDATED DAMAGES OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) PROVIDED ABOVE REPRESENTS A REASONABLE SUM UNDER THE

CIRCUMSTANCES TO BE PAID TO SELLER IN THE EVENT OF A DEFAULT BY BUYER UNDER THIS AGREEMENT AFTER NOTICE AND THE EXPIRATION OF ANY APPLICABLE CURE PERIOD ON OR BEFORE THE ONE HUNDRED EIGHTIETH (180TH) DAY FOLLOWING THE EFFECTIVE DATE.

SELLER: _____

BUYER: _____

THE PARTIES AGREE, BY INITIALING BELOW, THAT THE LIQUIDATED DAMAGES OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) PROVIDED ABOVE REPRESENTS A REASONABLE SUM UNDER THE CIRCUMSTANCES TO BE PAID TO SELLER IN THE EVENT OF A DEFAULT BY BUYER UNDER THIS AGREEMENT AFTER NOTICE AND THE EXPIRATION OF ANY APPLICABLE CURE PERIOD AFTER THE ONE HUNDRED EIGHTIETH (180TH) DAY FOLLOWING THE EFFECTIVE DATE.

SELLER: _____

BUYER: _____

THE PARTIES AGREE BY INITIALING BELOW THAT THE LIQUIDATED DAMAGES OF ONE MILLION DOLLARS (\$1,000,000) PROVIDED ABOVE REPRESENTS A REASONABLE SUM UNDER THE CIRCUMSTANCES TO BE PAID TO SELLER IN THE EVENT OF A DEFAULT BY BUYER UNDER THE AGREEMENT AFTER THE EXTENSION OF THE PARCEL C CLOSING DATE.

SELLER: _____

BUYER: _____

15.2 Seller's Default. In the event that the Close of Escrow does not occur due to a default under this Agreement by Seller, (a) this Agreement shall not be terminated automatically, but only upon delivery to Escrow Holder and Seller of written notice of termination from Buyer, in which event (i) Seller shall automatically return to Buyer the Deposit and pay all unreimbursed Buyer's Reimbursable Costs, (ii) Escrow Holder shall automatically return to Buyer any other sums deposited by Buyer with Escrow Holder, and (iii) Buyer shall be entitled to recover whatever other damages it has sustained on account of Seller's default hereunder, which damages shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000), or (b) Buyer shall be entitled to keep this Agreement in effect and pursue any and all other remedies available to it against Seller including the specific performance of this Agreement, and Buyer may record a notice of pendency of action against the Housing Parcels.

ARTICLE 16 GENERAL PROVISIONS

16.1 Notices. Any and all written communications required or permitted by this Agreement or by law to be served or given upon either party hereto by the other party hereto, or by the Escrow Holder, shall be in writing and deemed served and given when personally delivered. In lieu of personal service, notices may be delivered (A) by U.S. mail, certified or registered, return receipt requested, in which event the notice shall be deemed received only (i) when actually received, as evidenced by an executed receipt for delivery or (ii) if never actually received by the addressee, on the date of first notice of attempted delivery, as reflected by postal service notation; or (B) by facsimile in which event notice shall be deemed given when such

written telecommunication is received by the party to be notified; or (C) by recognized overnight delivery service, in which event notice shall be deemed given on the next business day following the date the notice is transmitted to the delivery service in sufficient time for the notice to be delivered on the next business day.

Any notice to be delivered to Seller shall be addressed to:

County Executive
County of Santa Clara
70 West Hedding Street
11th Floor
San Jose, CA 95110
Facsimile Number: (408) 293-5649

with a copy to:

County Counsel
County of Santa Clara
70 West Hedding Street
9th Floor
San Jose, CA 95110
Facsimile Number: (408) 299-7240

(with a copy of such facsimile delivered to the addressee by first class U.S. Mail)

Any notice to be delivered to Buyer shall be addressed to:

KB Home South Bay Inc.
6700 Koll Center Parkway, Suite 200
Pleasanton, CA 94566
Attn: Mr Jeff McMullen
Facsimile No.: (925) 750-1800
Telephone No.: (925) 750-1714

with a copy to:

KB Home
10990 Wilshire Boulevard
Los Angeles, CA 90024
Attn: Ross A. Kay, Esquire
Facsimile No.: 310/231-4280
Telephone No.: 310/231-4284

If to Escrow Holder:

- First American Title Guaranty Company
1732 North First Street
San Jose, CA 95112
Attn: Dian Blair
Facsimile No.: (408) 451-7836
Telephone No.: (408) 451-7828

16.2 Attorneys' Fees. If any litigation is commenced concerning the Housing Parcels, this Agreement or the rights and duties of either Seller or Buyer in relation thereto, whether an action for damages, equitable or declaratory relief, the prevailing party in such litigation, in addition to other relief, shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in connection with the litigation.

16.3 Assignment.

16.3.1 Buyer's Assignment. Buyer shall have the right to assign this Agreement, upon prior written notice to Seller, but without Seller's consent, to a corporation, joint venture, partnership, limited liability company or other similar entity provided that KB Home South Bay Inc. has at least a twenty-five percent (25%) interest in such entity and has the lead role in such entity for processing the Entitlements. Any such assignment shall not release Buyer from any liability hereunder. Notwithstanding said assignment, the Construction License shall be executed by KB Home South Bay Inc. Except for any such permitted assignment, Buyer may not assign its rights or delegate its duties with regard to this Agreement or the Housing Parcels prior to Escrow Closing except with the prior written consent of Seller, which Seller may withhold in Seller's discretion. Buyer has been selected, in part, based on its reputation in the community, on its experience with similar transactions, on its relationship with affordable housing developers and on the Seller's analysis of Buyer's business practices and ability to perform. After the Escrow Closing, Buyer may assign its rights to an affordable housing developer for the sole purpose of implementing the provisions of Article 11.

16.3.2 Seller's Right to Assign. Seller may assign its rights and obligations under this Agreement to the RDA pursuant to the RDA Agreement and the Seller may convey the Housing Parcels to the RDA pursuant to the RDA Agreement. If the Seller conveys the Housing Parcels to the RDA, the conveyance shall be subject to Buyer's rights to acquire the Housing Parcels on all of the terms and conditions set out herein. In the event of any conflict between this Agreement and the RDA Agreement, this Agreement shall govern and control the intent and agreement of the parties. The RDA shall assume all of the rights and obligations of Seller under this Agreement except that Seller shall specifically retain the obligations set forth in (i) Section 2.3 with regard to funding of the Park Escrow Fund and payment of in-lieu park fees, (ii) Section 9.1 with respect to payment of PUC Payments, the Affordable Housing Subsidy, the cost of the Approved Infrastructure Work, the Approved Mitigations, the cost of remediation of any Attachment 1B Matter, and the Seller's Maximum Qualifying Hazardous Materials Expenses, to the extent paid from Seller's Funds, subject to the limitations in Section 9.1, (iii) Sections 9.2.2 and 9.25, respectively, if the County (but not the RDA) elects to pay costs shown in the Preliminary Budget and Final Budget in excess of Twenty-one Million Dollars (\$21,000,000), (iv) Section 9.2.6 as to Parcel B Infrastructure Costs, (v) Section 10.3 as to Seller's Maximum

Qualifying Hazardous Materials; (vi) Section 10.5 as to Attachment 1B Mitigation Costs and (vii) Section 15.2 as to any damages payable as a result of a default by the County (but not the RDA) under this Agreement, and any obligations not specifically assumed by the RDA in the RDA Agreement (collectively, "Retained Obligations"). Following said assignment, the failure of the County to pay or perform a Retained Obligation within the time period required under this Agreement shall be a default by the RDA under this Agreement. At the close of escrow for the County's conveyance of the Housing Parcels to the RDA, the County shall deliver to Buyer an Assignment and Assumption of Purchase Agreement whereby the County assigns to the RDA all of its rights and obligations under this Agreement, except the Retained Obligations and the RDA assumes all of rights and obligations of the County under this Agreement, excluding the Retained Obligations, and agrees to strictly comply with the terms and conditions of this Agreement ("Seller Assignment Agreement"). The Seller Assignment Agreement shall provide that the County retains the Deposit and liability for the return of the Deposit to Buyer in those instances where Buyer is entitled to a return of the Deposit under this Agreement, and shall further provide that the RDA agrees to credit the Deposit against the Purchase Price at the Close of Escrow. Subject to Buyer's receipt of a fully executed Seller Assignment Agreement showing the RDA's assumption of all rights and obligations of the County under this Agreement but excluding the Retained Obligations, the County Seller shall be released from all of its obligations under this Agreement, except the County shall remain liable to Buyer hereunder for performance of the Retained Obligations and Buyer shall retain the right to proceed directly against the County with respect to any failure to pay or perform any Retained Obligation.

16.4 Entire Agreement. This Agreement constitutes the entire agreement between Buyer and Seller with respect to the purchase of the Housing Parcels by Buyer and supersedes all other agreements, letters, memoranda or understandings respecting same, whether oral or written. This Agreement may not be modified by either party by oral representation made before or after the execution of this Agreement. All modifications, amendments or additions to this Agreement must be in writing signed by Seller and Buyer.

16.5 Time of the Essence. Both Seller and Buyer agree that time is of the essence for the performance of each and every covenant and the satisfaction of each and every condition contained in this Agreement.

16.6 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereto to any person or circumstance, shall to any extent be held by a court of competent jurisdiction or rendered by the adoption of a statute by the State of California or the United States invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereto to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

16.7 Successors and Assigns. Subject to any limitations in Section 16.3, this Agreement shall be binding upon and inure to the benefit of the respective assigns, heirs, successor and legal representatives of each of the parties.

16.8 Headings. The headings in this Agreement are for the purpose of reference only and shall not limit or define the interpretation of the content of this Agreement.

16.9 Counterparts. This Agreement may be executed in any number of counterparts or duplicate originals, each of which is an original for all purposes.

16.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of California.

16.11 Buyer's Representations and Warranties. Buyer hereby makes the following representations to Seller: (i) Buyer is duly organized, existing and qualified to do business in the State of California, (ii) Buyer has the full right and authority to enter into this Agreement and to consummate the purchase and transaction contemplated herein, (iii) the persons executing, on behalf of Buyer, this Agreement and any document executed pursuant hereto have full power and authority to bind Buyer and (iv) the execution of this Agreement and any document pursuant hereto will not violate or constitute a default under any agreement to which Buyer is a party.

16.12 Delegation of Authority. By execution of this Agreement, the Board of Supervisors of the County of Santa Clara:

Decision Making Authority. Grants to the County Executive, the Acting County Executive, or the designee of the County Executive or Acting County Executive (collectively, for purposes of this Section, the "County Executive"), the power and authority to make any decisions pursuant to this Agreement, grant consents or approvals as Seller under the Agreement, accept funds on behalf of the County, and provide extensions to the time periods described in this Agreement. Any such action taken by the County Executive hereunder, shall be binding on the County and any third party may rely on the County Executive's authority to so act.

Signature Authority. Grants to the County Executive the power and authority to sign on behalf of the County (and bind the County by such signing) all agreements and documents contemplated by this Agreement, including, without limitation, the Memorandum, escrow instructions, assignment and assumption documents with the Milpitas Redevelopment Agency, closing documents and any amendments thereto.

County Counsel Review. The Board of Supervisors' delegations of authority described above are subject to review and approval by the County Counsel of all documentation as to form and legality.

16.13 Memorandum of Agreement. Within five (5) days after the Effective Date, Buyer and Seller shall execute and Escrow Holder shall record a memorandum of agreement (in the form of Exhibit J attached hereto) ("Memorandum") in the Official Records of Santa Clara County.

7IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the
respective dates set forth below.

Dated: AUG 19 2003

BUYER:

KB SOUTH BAY, INC., a California
corporation

By: Robert Fried
Its: Executive President

By: _____
Its: _____

Dated: AUG 19 2003

SELLER:

The County of Santa Clara, a political
subdivision of the State of California

By: Blanca Alvarado
BLANCA ALVARADO, Chairperson

Board of Supervisors

Attest: Phyllis A. Perez, Clerk
Board of Supervisors

APPROVED AS TO FORM AND
LEGALITY:

Paul Niewiadomski
Paul Niewiadomski, Deputy County
Counsel

ATTACHMENT NO. 1 INFRASTRUCTURE AND MITIGATIONS DEFINED

The Approved Infrastructure Work and Approved Mitigations to be provided by Seller/Milpitas RDA are defined as follows:

A. The term "Approved Infrastructure Work" means the actual cost of constructing the following:

1. All underground utilities to the exterior property line(s);
2. Joint trenches to the exterior property line(s);
3. All exterior offsite public roadways, curbs, gutters, sidewalks, including all other exterior offsite street improvements;
4. All required exterior offsite storm water runoff improvements;
5. All exterior offsite sewer, water, and storm lines;
6. All offsite Abel Street improvements, including a bridge from Abel Street onto Parcel D not to exceed \$800,000;
7. All utilities, joint trenches, street improvements, curb, gutter, sidewalks, storm water runoff improvements, sewer, water, storm lines, traffic signalization and control improvements located on or adjacent to the commercial parcel, the existing entry road off of Great Mall Parkway and/or the existing entry road parallel to the southerly line of the Hetch Hetchy where such improvements are in part or entirely required to serve or benefit the residential parcel;
8. The term "exterior property lines" means, for Parcel D, the northerly property line between Parcel D and the existing residential neighborhood, the easterly property line of Penitencia Creek running along the westerly limit of Abel Street, the Southerly property line of the Hetch Hetchy pipeline, and the westerly property line between Parcel D and the commercial Parcel B;
9. The term "exterior property lines" means, for Parcel C, the existing eastern, southern and western property lines, and the northerly property line of the Hetch Hetchy pipeline (near the northern portion of Parcel C);
10. Connection to the City's recycled water pipeline located adjacent to the southerly property line of the Hetch Hetchy parcel;
11. Payment of the ground lease (if any payment is required) to the SFPUC for parklands from a fund of up to \$1,500,000 (a portion of the \$20,000,000 escrow infrastructure fund resulting from the RDA - County agreement);
12. Up to \$1,000,000 of the escrow infrastructure fund may be applied toward the soft and hard costs of developing affordable housing within the project; and

13. All exterior reasonable offsite traffic control requirements, including striping, signalization, and the like.

B. The term "Approved Mitigations" means the actual cost and/or performance of the following:

1. Implementation of a plan to exclude and/or relocate the burrowing owl or other protected species from the site and mitigation of wetlands, if any;

2. In-lieu fees, and related costs, to the California Department of Fish and Game for the acquisition of replacement habitat, or to an organization providing that service; and

3. Protecting, exhuming, securing, transporting, studying and reporting archeological discoveries on the property.

C. Limitations on Use of RDA Funds: Reimbursements to County:

1. Neither park in-lieu fees, park improvement costs, nor improvements within the "exterior property lines" as described in Sections A.8. and A.9., above, (except a bridge connecting Able Street to Parcel D not to exceed \$800,000) shall be reimbursed or paid by the RDA unless Buyer first agrees to pay an equal sum to the County.

EXHIBIT A
LEGAL DESCRIPTION OF SELLER'S ENTIRE PROPERTY

LEGAL DESCRIPTION

Real property in the City of Milpitas, County of Santa Clara, State of California, described as follows:

Parcel One:

Parcel "B" as said Parcel is shown on that Map entitled, "Record of Survey", filed March 7, 1963, in Book 157 of Maps, at page 56, in the Office of the County Recorder of Santa Clara County.

Excepting all that portion described in the Deed to the State of California, recorded July 3, 1970, in Book 8975 Official Records, page 149, Santa Clara County Records.

Also excepting therefrom that portion thereof as conveyed to Santa Clara Valley Water District, a public corporation by deed recorded June 23, 1973 in Book B476, page 309, Official Records.

Parcel Two:

Parcel C as shown on a Parcel Map filed for record on March 7, 1963 in Book 157 of Maps, page 56.

Excepting therefrom that portion thereof as conveyed to Santa Clara Valley Water District, a public corporation by deed recorded June 23, 1973 in Book B476, page 309, Official Records.

Also excepting therefrom that portion thereof as conveyed to the City of Milpitas, a municipal corporation by deed recorded July 16, 1992 in Book M283, page 11, Official Records.

Also excepting therefrom that certain parcel conveyed to the City of Milpitas, a municipal corporation by Deed recorded February 28, 1994 in Book N324, Page 1369 of Official Records.

Also excepting therefrom that certain parcel conveyed to the City of Milpitas, a municipal corporation by Deed recorded May 4, 1994 in Book N428, Page 657 of Official Records.

Also excepting therefrom that certain parcel conveyed to the City of Milpitas, a municipal corporation by Deed recorded May 27, 1997 as Document No. 13718084 of Official Records.

Parcel Three:

A strip of land 80 feet wide lying 40 feet either side of the following described line and extensions thereto across that certain 100 acre tract of land conveyed by James Boyd to the County of Santa Clara, by deed dated December 22, 1883 and recorded December 22, 1883, in Book 71 of Deeds, page 492 and across that certain 96.11 acre tract of land conveyed by Mary T. O'Toole, et al, by the County of Santa Clara by Deed dated October 7, 1901 and recorded October 21, 1901 in Book 248 of Deeds, page 91, said line being more particularly described as follows:

Beginning at a point in the common boundary between the 96.11 acre tract of land hereinabove referred to and that certain 25.0 acre tract of land described in the Deed from Frances A. Correa to Joe Marianelli, et ux, dated March 27, 1945 and recorded March 3, 1945 in Book 1244, of Official Records, page 558, distant thereon S. 25° 30' E. 511.05 feet from the most Northerly corner of said 25.0 acre tract; thence N. 65° 08' E. 3265 feet, more or less, to the Easterly line of the 100.0 acre tract of land hereinabove referred to in the center of the Penitencia Creek, the

Westerly end of said strip being the said common boundary between said 96.11 and 25.0 acre tracts of land and the Easterly end of said strip being the Easterly line of said 100.0 acre tract of land in the center of the Penitencia Creek, being a part of the Ellen E. White portion of the Esteros Rancho.

Parcel Four:

Beginning at the point of intersection of the Easterly line of Abel Street, as established by the deed recorded December 24, 1959 in Book 4646, page 463 of Official Records, and the Southerly line of the lands of the City and County of San Francisco, a Municipal Corporation, as described in the Final Decree in Condemnation recorded December 8, 1950 in Book 2112, page 7 of Official Records, said point of beginning also being the Northwestern corner of Parcel "D", as said Street and Parcel are shown upon that certain Map entitled, "Record of Survey being a portion of Los Esteros and Milpitas Ranchos in City of Milpitas, California", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on March 7, 1963 in Book 157 of Maps at page 56; thence from said point of beginning along the Southerly line of the land of the City and County of San Francisco and the Northerly and Easterly line of said Parcel "D" for the following courses and distances: North 65° 00' 10" East 188.29 feet, North 65° 00' 30" East 26.61 feet, South 49° 22' 40" East 96.99 feet, South 34° 17' 30" East 177.30 feet, South 11° 57' 30" East 257.07 feet, South 34° 46' 30" East 157.01 feet, South 47° 28' 50" East 49.02 feet and North 61° 06' 10" East 40.39 feet to a point in the Westerly line of Main Street, also known as San Jose-Oakland Road; thence Southeasterly along said Westerly line of Main Street, along an arc of a curve to the left, from a tangent bearing South 14° 09' 50" East, with a radius of 4030.00 feet, through a central angle of 4° 44' for an arc distance of 332.93 feet; thence South 18° 53' 50" East continuing along said Westerly line of Main Street for a distance of 329.66 feet to the point of intersection thereof with the Northerly line of Curtis Avenue, as said line was established by Deed from the County of Santa Clara, to the City of Milpitas, dated August 5, 1963, recorded August 23, 1963 in Book 6162 Official Records, page 684, Santa Clara County Records; thence along said Northerly line of Curtis Avenue for the following courses and distances: South 72° 08' 19" West 15.00 feet; thence Southwesterly along an arc of a curve to the right, with a radius of 20.0 feet, through a central angle of 90° 47' 13", for an arc distance of 31.69 feet; thence on a compound curve to the right, with a radius of 4753.38 feet, through a central angle of 5° 54' 54", for an arc distance of 490.72 feet and Northwesterly on a compound curve to the right, with a radius of 20.00 feet, through a central angle of 90° 47' 13" for an arc distance of 31.69 feet to the point of intersection thereof with the said Easterly line of Abel Street; thence North 11° 24' 30" West along said Easterly line of Abel Street for a distance of 1312.31 feet to the point of beginning, and being a portion of Parcel D, as said Parcel is shown upon the Record of Survey Map hereinabove referred to.

Excepting therefrom that portion thereof as conveyed to the City of Milpitas, by deed recorded April 2, 1969 in Book 8484, page 90 of Official Records, more particularly described as follows:

Beginning at the Northeasterly corner of that certain 3.281 acre parcel of land in the Westerly line of San Jose-Oakland Road, also known as Main Street, as said Parcel and Road are shown upon that certain Map entitled, "Record of Survey being a portion of Los Esteros and Milpitas Ranchos in the County of Santa Clara, State of California", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on October 24, 1968 in Book 244 of Maps at page 4; thence from said point of beginning along the Northerly, Northwesterly and Westerly lines of said 3.281 acre parcel of land for the following courses and distances; South 61° 11' 25" West 40.43 feet, North 47° 26' 20" West 20.00 feet, South 39° 49' 40" West 210.71 feet, South 17° 21' 38" East 233.89 feet and South 18° 52' 50" East 343.42 feet to the Southwesterly corner thereof in the Northerly line of Curtis Avenue (60 feet in width), as said line was established by Deed from the County of Santa Clara, to the City of Milpitas, dated August 5, 1963, recorded August 23, 1963 in Book 6162 Official Records, page 684, Santa Clara

County Records; thence Easterly along the said Northerly line of Curtis Avenue, along an arc of a curve to the left, from a tangent bearing North $74^{\circ} 08' 40''$ East, with a radius of 4753.38 feet, through a central angle of $2^{\circ} 15' 10''$, for an arc distance of 186.89 feet; thence on a compound curve to the left, with a radius of 20.00 feet, through a central angle of $90^{\circ} 47' 10''$, for an arc distance of 31.69 feet; thence North $71^{\circ} 06' 20''$ East 15.00 feet to a point in the said Westerly line of San Jose-Oakland Road; thence North $18^{\circ} 53' 40''$ West along said Westerly line of San Jose-Oakland Road for a distance of 329.66 feet; thence Northerly along an arc of a curve to the right, tangent to the preceding courses with a radius of 4030.00 feet, through a central angle of $4^{\circ} 44' 05''$ for an arc distance of 333.02 feet to a point of beginning and being all of that certain 3.281 acre parcel of land as shown upon said Record of Survey Map hereinabove referred to.

APN: 086-05-003, 005, 006, 009, 021; 086-11-013

ARB: 86-5-2, 3, 4; 86-11-7

EXHIBIT B

DESCRIPTION OF PARCEL A, PARCEL B, PARCEL C AND PARCEL D

DRAWING OR GENERAL DESCRIPTION TO BE REPLACED BY A BOUNDARY
SURVEY TO BE PREPARED BY BUYER

EXHIBIT C

DEFINITION OF HAZARDOUS MATERIALS

The term "Hazardous Material" as used in this Agreement shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to those substances, materials or wastes regulated now or in the future under any of the statutes or regulations listed below and any and all of those substances included within the definitions of "hazardous substances", "hazardous materials", "hazardous waste", "hazardous chemical substance or mixture", "imminently hazardous chemical substance or mixture", "toxic substances", "hazardous air pollutant", "toxic pollutant" or "solid waste" in the statutes or regulations listed below ("Hazardous Substance Laws"). Hazardous Materials shall also mean any and all other similar terms defined in other federal state and local laws, statutes, regulations, orders or rules and materials and wastes which are, or in the future become, regulated under applicable local, state or federal law for the protection of health or the environment or which are classified as hazardous or toxic substances, materials or waste, pollutants or contaminants, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including, without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents, (ii) any petroleum products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, and (vii) radioactive materials and waste.

In addition, a Hazardous Material shall include:

1. a "Hazardous Substance", "Hazardous Material", "Hazardous Waste", or "Toxic Substance" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.;
2. an "Extremely Hazardous Waste", a "Hazardous Waste", or a "Restricted Hazardous Waste", under §§ 25115, 25117 or 25122.7 of the California Health and Safety Code, or is listed or identified pursuant to §§ 25140 or 44321 of the California Health and Safety Code;
3. a "Hazardous Material", "Hazardous Substance", "Hazardous Waste", "Toxic Air Contaminant", or "Medical Waste" under §§ 25281, 25316, 25501, 25501.1, 25023.2 or 39655 of the California Health and Safety Code;
4. "Oil" or a "Hazardous Substance" listed or identified pursuant to § 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321, as well as any other hydrocarbonic substance or by-product;
5. listed or defined as a "Hazardous Waste", "Extremely Hazardous Waste", or an "Acutely Hazardous Waste" pursuant to Chapter 11 of Title 22 of the California Code of Regulations;
6. listed by the State of California as a chemical known by the State to cause cancer or reproductive toxicity pursuant to § 25249.8(a) of the California Health and Safety Code;

7. a material which due to its characteristics or interaction with one or more other substances, chemical compounds, or mixtures, damages or threatens to damage, health, safety, or the environment, or is required by any law or public agency to be remediated, including remediation which such law or public agency requires in order for the property to be put to any lawful purpose;

8. any material the presence of which would require remediation pursuant to the guidelines set forth in the State of California Leaking Underground Fuel Tank Field Manual, whether or not the presence of such material resulted from a leaking underground fuel tank;

9. pesticides regulated under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.;

10. asbestos, PCBs, and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.;

11. any radioactive material including, without limitation, any "source material", "special nuclear material", "by-product material", "low-level wastes", "high-level radioactive waste", "spent nuclear fuel" or "transuranic waste", and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq., the Nuclear Waste Policy Act, 42 U.S.C. §§ 10101 et seq., or pursuant to the California Radiation Control Law, California Health and Safety Code §§ 25800 et seq.

12. industrial process and pollution control wastes, whether or not "hazardous" within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.;

13. regulated under the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., or the California Occupational Safety and Health Act, California Labor Code §§ 6300 et seq.; and/or

14. regulated under the Clean Air Act, 42 U.S.C. §§ 7401 et seq. or pursuant to Division 26 of the California Health and Safety Code.

All other laws, ordinances, codes, statutes, regulations, administrative rules, policies and orders, promulgated pursuant to said foregoing statutes and regulations or any amendments or replacement thereof, provided such amendments or replacements shall in no way limit the original scope and/or definition of Hazardous Material defined herein.

EXHIBIT D

Construction License and Indemnity Agreement

This CONSTRUCTION LICENSE AND INDEMNITY AGREEMENT ("Agreement") is entered into as _____, 200__, between THE COUNTY OF SANTA CLARA, a political subdivision of the State of California ("Seller"), and KB HOME SOUTH BAY INC., a California corporation ("Buyer"), with reference to the following facts:

(a) Seller holds title to certain unimproved real property (the "Property") located in the City of Milpitas, County of Santa Clara, State of California, and as more particularly described on Exhibit A attached hereto.

(b) Seller and Buyer have entered into that certain Agreement for Purchase and Sale of Real Property dated as of August __, 2003 (the "Purchase Agreement") pursuant to which Seller has agreed to sell the Property to Buyer on certain terms and conditions.

(c) Pending Buyer's purchase of the Property pursuant to the Purchase Agreement, Buyer desires the right to enter upon the Property for the purposes of grading, stockpiling fill dirt, site preparation, development, construction of streets, sewers, and model and production homes, installation, maintenance and occupancy of a sales trailer, sales activities and placement of signs and other related improvements and activities incidental thereto.

(d) Seller desires to grant a license to Buyer for such purpose.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement and the Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Licenses. From and after the date hereof, Buyer (and Buyer's agents, employees, contractors and subcontractors) shall have the non-exclusive right and license to enter upon the Property for the purpose of grading, stockpiling fill dirt, site preparation, development, construction of streets, sewers, and model and production homes, installation, maintenance and occupancy of a sales trailer, sales activities and placement of signs and other related improvements and activities incidental thereto; provided that in conducting all such activities Buyer complies with all laws and regulations applicable and obtains and maintains the insurance described in Paragraph 4. All costs of such work and activity shall be borne solely by Buyer.

2. Effect of Termination of Purchase Agreement Due to Any Reason Other Than Seller's Default. If the Purchase Agreement is terminated prior to Buyer's acquisition of the Property on account of any reason other than a default by Seller thereunder then, except as expressly limited herein:

(a) Buyer shall assign to Seller all of the work Buyer has performed on the Property;

(b) Buyer shall execute any documentation reasonably necessary to convey such work to Seller; and

(c) Buyer shall waive any right to recover its costs in performance of such work from Seller.

Upon such a termination of the Agreement for any reason other than a default by Seller, Buyer's rights to perform work shall immediately and without further notice terminate except that Buyer shall continue to remain on the Property for so long as it is necessary to leave the Property in a safe condition. In no event shall Buyer discontinue its work on or vacate the Property leaving an unsafe condition remaining. If such should occur, Buyer shall pay to Seller the cost it incurs to make such conditions safe. If the Purchase Agreement is terminated for any reason other than a default by Seller, Buyer shall cause the release of any liens against the Property which were recorded against the Property as a result of Buyer's activities thereon. On such a termination of the Purchase Agreement (for any reason other than a default by Seller), Buyer shall immediately deliver to Seller all plans, specifications, permits and documents related to the work performed by Buyer on the Property (provided that nothing herein shall be construed so as to obligate Buyer to deliver any confidential information, market studies or drawings, plans, specifications, or schematics for the attached and/or detached homes that Buyer intends to construct on the Property, except as provided in Section 6.6).

3. Effect of Termination of Purchase Agreement Due to Seller's Default. If the Purchase Agreement is terminated prior to the Buyer's acquisition of the Property due to a default by Seller, then, except as expressly limited herein:

(a) Buyer shall have none of the obligations set forth in Paragraph 2 above (other than to leave the Property in a safe condition and to cause the removal of any liens against the Property which were recorded against the Property as a result of Buyer's activities thereon, except as provided in the final paragraph of this Paragraph 3);

(b) Buyer shall have no obligation to remove any work completed (but Buyer may at its option remove any such work), provided that in all events Buyer shall leave the Property and the work in a safe condition; and

(c) Seller shall reimburse Buyer for all actual costs and expenses incurred by Buyer in performing the work, removing the work (to the extent removed), and making the Property safe, with such reimbursement (the "Reimbursement Payment") to be made within ten (10) days following Buyer's request (following a termination of this Agreement due to a default by Seller).

In the event of a termination of the Purchase Agreement due to a default by Seller, until the Reimbursement Payment is made, Buyer shall have no obligation to remove any liens imposed against the Property in connection with Buyer's activities thereon, and Buyer is hereby granted an equitable lien on and against the Property in the amount of the Reimbursement Payment, together with interest thereon, and costs and expenses of collection, including reasonable attorneys' fees and court or arbitration costs, and Buyer shall have all rights and remedies available to it under law with respect to the enforcement of such lien, including,

without limitation, the right but not the obligation to record a notice of lien against the Property and to enforce that lien to the fullest extent provided by law.

4. Insurance. At any time while Buyer is performing work on the Property, Buyer shall obtain and maintain in full force and effect, at its own expense: (i) a policy of insurance written by one or more responsible insurance carrier(s) which will include Seller as an additional insured, insuring against liability for injury to persons and/or property and death of any person or persons occurring in, on, or about Property arising from Buyer's conduct, and the combined single limit of liability under such insurance shall not be less than \$1,000,000; and (ii) all employee's compensation insurance required under applicable Worker's Compensation Acts. Before commencing any work on the Property, Buyer shall furnish Seller with certificates of insurance issued by the appropriate insurance carrier(s) demonstrating compliance with the terms of this paragraph and providing that such insurance shall not be canceled except after thirty (30) days written notice to Seller.

5. Indemnity Regarding Buyer's Activities. Buyer shall indemnify and hold harmless Seller from and against all claims, causes of action, damages, costs, and expenses (including reasonable attorneys' fees and costs), arising from any work or conduct engaged in by Buyer and Buyer's agents, employees, contractors, and subcontractors pursuant to Paragraph 1, or related to the commission or omission of any act in connection with such conduct.

6. Notices. All notices required hereunder shall be in writing, and shall be delivered in the manner specified in the Purchase Agreement.

7. Attorneys' Fees. If any party hereto institutes an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of, this Agreement, or the transactions contemplated hereby, or if any party is in default of its obligations pursuant thereto, whether or not suit is filed or prosecuted to final judgment, the non-defaulting party or prevailing party shall be entitled to its actual attorneys' fees and to any court costs incurred, in addition to any other damages or relief awarded.

8. Binding on Successors. The terms and conditions herein contained shall be binding upon and inure to the benefit of the successors and assignees of the parties hereto.

9. Applicable Law. This Agreement and each and every related document are to be governed by, and construed in accordance with, the laws of the State of California.

10. Partial Invalidity. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction or rendered by the adoption of a statute by the State of California or the United States invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

11. Entire Agreement. This Agreement, together with all Exhibits hereto and documents referred to herein, if any, constitute the entire agreement among the parties hereto

with respect to the subject matter hereof, and supersede all prior understandings or agreements. This Agreement may be modified only by a writing signed by both parties. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement whether or not actually attached.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

KB HOME SOUTH BAY, INC.,
a California corporation

By: _____

Title: _____

a _____

By: _____

Title: _____

EXHIBIT E
RENTAL REGULATORY AGREEMENT.

[to be attached]

EXHIBIT F
FOR-SALE REGULATORY AGREEMENT

[to be attached]

EXHIBIT G
GRANT DEED

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

KB Home South Bay, Inc.
6700 Koll Center Parkway, Suite 200
Pleasanton, CA 94566
Attention: Mr. Jeff McMullen

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor declares:
Documentary Transfer Tax not shown
pursuant to Section 11932 of the
California Revenue and Taxation Code

City of Milpitas

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THE COUNTY OF SANTA CLARA, a political subdivision of the State of California, hereby GRANTS to KB HOME SOUTH BAY INC., a California corporation, the following described real property located in the City of Milpitas, County of Santa Clara, State of California:

See Exhibit A attached hereto and incorporated herein by this reference.

DATED: _____ 200__

The County of Santa Clara, a political
subdivision of the State of California

By: _____
Chairperson, Board of Supervisors

Attest: Phyllis A. Perez, Clerk
Board of Supervisors

APPROVED AS TO FORM AND
LEGALITY: - -

Paul Niewiadomski, Deputy County
Counsel

STATE OF CALIFORNIA

COUNTY OF _____

ss.

On _____, before me, _____, personally appeared _____

☐ personally known to me -OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

☐ INDIVIDUAL
☐ CORPORATE OFFICERS(S)

Title(s)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies)

STATE OF CALIFORNIA

COUNTY OF _____

ss.

On _____, before me, _____, personally appeared _____

☐ personally known to me -OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

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☐ CORPORATE OFFICERS(S)

Title(s)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies)

EXHIBIT-H

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

To inform KB HOME NORTH BAY INC., a California corporation ("Transferee"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended, ("Code") will not be required upon the transfer of certain real property to the Transferee by The County of Santa Clara, a political subdivision of the State of California ("Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder); and

2. The Transferor's U.S. employer or tax (social security) identification number is _____;

The Transferor understands that this Certification may be disclosed to the Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

The Transferor understands that the Transferee is relying on this Certification in determining whether withholding is required upon said transfer.

Under penalty of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor,

Date: _____, 2003

"TRANSFEROR"

EXHIBIT I

Blanket Assignment and Bill of Sale

Reference is hereby made to that certain property located in the City of Milpitas, the County of Santa Clara, State of California and described in more detail on EXHIBIT A attached hereto and made a part hereof and the improvements located thereon and the rights, privileges and entitlements incident thereto (the "Property"). For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned, THE COUNTY OF SANTA CLARA, a political subdivision of the State of California ("Seller"), hereby sells, transfers, assigns, conveys and delivers to KB HOME SOUTH BAY INC., a California corporation ("Buyer"), all of Seller's right, title and interest in all assets, rights, materials and/or claims used, owned or held in connection with the use, management, development or enjoyment of the Property, including, without limitation: (i) all entitlements, subdivision agreements and other agreements relating to the development of Property; (ii) all plans, specifications, maps, drawings and other renderings relating to the Property; (iii) all warranties, claims, indemnities and any similar rights relating to and benefiting the Property or the assets transferred hereby; (iv) all intangible rights, goodwill and similar rights benefiting the Property; (v) all development rights benefiting the Property; (vi) all rights, claims or awards benefiting the Property; and (vii) all rights to receive a reimbursement, credit or refund from the applicable agency or entity of any deposits or fees paid in connection with the development of the Property.

Seller hereby covenants that it will, at any time and from time to time upon written request therefor, at not cost to Seller, execute and deliver to Buyer, its nominees, successors and/or assigns, any new or confirmatory instruments and do and perform any other acts which Buyer, its nominees, successors and/or assigns, may request in order to fully transfer possession and control of, and protect the rights of Buyer, its nominees, successors and/or assigns in, all the assets of Seller intended to be transferred and assigned hereby.

a _____

By: _____

Title: _____

EXHIBIT J

MEMORANDUM OF AGREEMENT

Recording requested by,
and when recorded return to:

KB Home South Bay Inc.
6700 Koll Center Parkway, Suite 200
Pleasanton, CA 94566
Attention: Mr. Jeff McMullen

THIS MEMORANDUM OF AGREEMENT ("Memorandum") is executed as of _____, 2003, by and between THE COUNTY OF SANTA CLARA, a political subdivision of the State of California ("Seller"), and KB HOME SOUTH BAY INC., a California corporation ("Buyer").

1. The parties have entered into that certain Agreement for Purchase and Sale of Real Property dated as of August __, 2003 (the "Agreement"), which is incorporated herein by reference as if fully set forth herein. All capitalized terms not defined herein shall have the meanings ascribed to them set forth in the Agreement.

2. Pursuant to the Agreement, Seller has agreed to sell to Buyer certain real property described on Exhibit A hereto (the "Property"). The closing date shall be no later than 547 days after the Effective Date of the Agreement, subject to certain extension provisions as set out in the Agreement.

3. The parties desire to make the existence of the Agreement a matter of public record and have, therefore, executed this Memorandum and caused it to be recorded in the Official Records of Santa Clara County, California. However, in the event of any inconsistency between the terms of the Agreement and the terms of this Memorandum, the terms of the Agreement shall control and govern the rights and duties of Buyer and Seller.

4. Pursuant to Sections 2881 and 2884 of the California Civil Code, Seller hereby grants to Buyer a lien against the Property, and this Memorandum shall constitute notice of such lien, to secure the performance of Seller's obligation to refund the Deposit provided by Buyer and disbursed to Seller if Buyer becomes entitled to such reimbursement in accordance with the terms of the Agreement.

IN WITNESS WHEREOF, the parties have signed this Memorandum as of the date first above written.

BUYER:

KB HOME SOUTH BAY INC.,
a California corporation

By: _____
Name: _____

Title: _____

SELLER:

_____,
a _____

By: _____

Name: _____

Its: _____

STATE OF CALIFORNIA

COUNTY OF _____

ss.

On _____, before me, _____, personally appeared _____,

☐ personally known to me -OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

☐ INDIVIDUAL
☐ CORPORATE OFFICERS(S)

Title(s)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies)

STATE OF CALIFORNIA

COUNTY OF _____

ss.

On _____, before me, _____, personally appeared _____,

☐ personally known to me -OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

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☐ CORPORATE OFFICERS(S)

Title(s)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies)

EXHIBIT A
TO MEMORANDUM OF AGREEMENT
LEGAL DESCRIPTION